

Exhibit 29

Deposition of Joseph Silva
(June 7, 2017) (excerpted)

REDACTED

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

CUNG LE; NATHAN QUARRY, JON)
FITCH, on behalf of)
themselves and all others)
similarly situated,)

Plaintiffs,)

vs.)

Case No.
2:15-cv-01045-RFB-(PAL)

ZUFFA, LLC, d/b/a Ultimate)
Fighting Championship and)
UFC,)

Defendant.)
_____)

VIDEOTAPE DEPOSITION OF JOSEPH SILVA

Richmond, Virginia

June 7, 2017

8:11 a.m.

Reported by:
KIMBERLY L. RIBARIC, RPR, CCR
JOB NO. 50374

<p style="text-align: right;">38</p> <p>1 SILVA</p> <p>2 information memorandum dated May 2007 by Deutsche</p> <p>3 Bank, it bears the Bates range DB-ZUFFA 6712 through</p> <p>4 6786.</p> <p>5 Have you seen this before?</p> <p>6 A. No, it does not look familiar to me.</p> <p>7 Q. Are you aware that from time to time while</p> <p>8 you were working with Zuffa, Zuffa sought financing</p> <p>9 in order to continue its operations?</p> <p>10 A. I was not privy to the details.</p> <p>11 Q. Okay. Please turn to page 6725, which I'm</p> <p>12 looking at the Bates number, that's the little black</p> <p>13 number at the bottom right-hand side of the page,</p> <p>14 under the Executive Summary.</p> <p>15 And I'd just like to draw your attention to</p> <p>16 the first full paragraph under "Zuffa business</p> <p>17 overview," in the last sentence of that first</p> <p>18 paragraph, and just ask you for your opinion of that,</p> <p>19 the sentence that says: "The UFC and Pride are the</p> <p>20 top two MMA brands in the world by most metrics, and</p> <p>21 management believes that the WEC will be the third by</p> <p>22 2008."</p> <p>23 Do you see that?</p> <p>24 A. Okay.</p> <p>25 Q. And this is dated in or about May 2007.</p>	<p style="text-align: right;">40</p> <p>1 SILVA</p> <p>2 company's recent acquisition of Pride Fighting</p> <p>3 Championships will further consolidate the vast</p> <p>4 majority of the world's top fighters under one</p> <p>5 umbrella and allow the Company to further develop</p> <p>6 relationships to penetrate its brand in Asia."</p> <p>7 Do you see that?</p> <p>8 A. Uh-huh.</p> <p>9 Q. So it's fair to say that this document was</p> <p>10 written just after Zuffa acquired Pride, is that</p> <p>11 fair, from the context?</p> <p>12 A. Yes.</p> <p>13 Q. And would you agree with the -- would you</p> <p>14 have a basis to disagree with the statement that</p> <p>15 Zuffa's recent acquisition of Pride would further</p> <p>16 consolidate the vast majority of the world's top</p> <p>17 fighters under one umbrella; do you agree with that?</p> <p>18 A. It would give us more, yes.</p> <p>19 Q. Would -- would you agree that, as a result</p> <p>20 of Zuffa's acquisition of Pride, Zuffa was able to</p> <p>21 further consolidate the vast majority of the world's</p> <p>22 top fighters under its own umbrella?</p> <p>23 MR. ISAACSON: Objection to form.</p> <p>24 A. Yeah, I would agree that it -- it acquired</p> <p>25 us more top fighters.</p>
<p style="text-align: right;">39</p> <p>1 SILVA</p> <p>2 In your experience and knowledge of the</p> <p>3 industry at -- at that time, is that an accurate</p> <p>4 statement?</p> <p>5 MR. ISAACSON: Objection. Form.</p> <p>6 A. I don't understand the question.</p> <p>7 Q. Do you believe that the statement that I</p> <p>8 just read to you, the UFC and Pride are the top two</p> <p>9 MMA brand -- brands in the world -- excuse me -- by</p> <p>10 most -- by most metrics, and management believes that</p> <p>11 the WEC will be the third by 2008, do you believe</p> <p>12 that that's an accurate statement?</p> <p>13 MR. ISAACSON: Same objection.</p> <p>14 A. I believe that that is what they thought.</p> <p>15 Q. Well, do you have a basis to dispute that</p> <p>16 the UFC and Pride, in or about May 2007, were the top</p> <p>17 two MMA brands in the world by most metrics?</p> <p>18 A. I do not dispute that.</p> <p>19 Q. You agree with that?</p> <p>20 A. Yes.</p> <p>21 Q. And it's fair to say that the UFC bought</p> <p>22 Pride at some point in 2007 or 2008; is that right?</p> <p>23 A. Yes.</p> <p>24 Q. Can you turn to Zuffa 6737 in the bottom</p> <p>25 right. The last sentence on the page says: "The</p>	<p style="text-align: right;">41</p> <p>1 SILVA</p> <p>2 Q. Well, in or about 2007, wouldn't you agree</p> <p>3 that Zuffa, after its acquisition of Pride, had the</p> <p>4 vast majority of the world's top fighters under its</p> <p>5 umbrella?</p> <p>6 A. I would say we had the most, but not all.</p> <p>7 As you see that even after that acquisition,</p> <p>8 we continued to bring in other fighters from other</p> <p>9 places in the world. If we'd already acquired all</p> <p>10 the best fighters, then no more acquisitions would be</p> <p>11 necessary.</p> <p>12 Q. So one of the things that Zuffa tries to do</p> <p>13 with its acquisitions is acquire top fighters from</p> <p>14 around the world; is that right?</p> <p>15 A. Yes.</p> <p>16 Q. Why?</p> <p>17 A. Because fans would like to see the best</p> <p>18 fighters.</p> <p>19 Q. Why do fans want to see the best fighters?</p> <p>20 MR. ISAACSON: Objection to form.</p> <p>21 A. Why do they want to find out who the best</p> <p>22 basketball player is or baseball player or football</p> <p>23 player? That's the appeal of sports.</p> <p>24 Q. So one of the things that you tried to do</p> <p>25 while you were at Zuffa was bring in the big names;</p>

<p style="text-align: right;">42</p> <p>1 SILVA</p> <p>2 is that fair?</p> <p>3 MR. ISAACSON: Objection. Foundation.</p> <p>4 A. No, it --</p> <p>5 Q. Well, let me -- let me back -- you weren't</p> <p>6 finished. Go ahead.</p> <p>7 A. Yeah. I would not say it's about bringing</p> <p>8 in the big names, because if you'd only fought in</p> <p>9 Japan, you were not a big name to anybody in the</p> <p>10 United States. What I tried to do was bring in the</p> <p>11 best talent that I could find, and if -- if they were</p> <p>12 truly worthy talent, then they -- they hopefully</p> <p>13 would become big names.</p> <p>14 Q. Right. So you're trying either to bring in</p> <p>15 big names or create big names?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And, for example, with respect to</p> <p>18 basketball, it's a star -- would you agree with the</p> <p>19 statement that it's a star-driven league?</p> <p>20 MR. ISAACSON: Objection to form.</p> <p>21 Foundation.</p> <p>22 Q. For example, the big stars are what drives</p> <p>23 people -- LeBron James, Steph Curry, those are the</p> <p>24 people that drive the vast majority of eyeballs to</p> <p>25 watch the NBA; correct?</p> <p style="text-align: right;">43</p>	<p style="text-align: right;">44</p> <p>1 SILVA</p> <p>2 There was fighters who came outside of that</p> <p>3 who beat those fighters, so it could have been some</p> <p>4 people's opinions that those were the best fighters,</p> <p>5 but it was not necessarily proven so.</p> <p>6 Q. Was it your opinion at the time --</p> <p>7 A. No.</p> <p>8 Q. -- in 2007 --</p> <p>9 A. I tend to be very skeptical.</p> <p>10 Q. Okay. But was it -- but was it the opinion</p> <p>11 of, say, in your understanding of Dana or Lorenzo</p> <p>12 Fertitta that in or about 2007 Zuffa had under its</p> <p>13 umbrella the world's top -- the vast majority of the</p> <p>14 world's top fighters?</p> <p>15 MR. ISAACSON: Objection. Form.</p> <p>16 Foundation.</p> <p>17 A. In their opinion, possibly. You'd have to</p> <p>18 ask them for their opinion.</p> <p>19 Q. Well, they must have told you.</p> <p>20 Dana must have said, yeah, we have the vast</p> <p>21 majority of the world's top fighters, at some</p> <p>22 point --</p> <p>23 A. That's not --</p> <p>24 MR. ISAACSON: Object --</p> <p>25 A. -- the kind of thing you would normally --</p> <p style="text-align: right;">45</p>
<p>1 SILVA</p> <p>2 MR. ISAACSON: Objection to form.</p> <p>3 Foundation. Calls for opinion.</p> <p>4 A. Yeah, I can't speak to basketball. The only</p> <p>5 sport that I watch are fighting sports.</p> <p>6 Q. But you just named other sports --</p> <p>7 A. But there are names that I am aware of.</p> <p>8 Q. Right. And one of the things that you're</p> <p>9 looking to do in building a roster of talented</p> <p>10 fighters is to -- is to -- is to find the top</p> <p>11 fighters in order to put on events that are going to</p> <p>12 grab eyeballs and attention; correct?</p> <p>13 A. Yes.</p> <p>14 Q. And this statement doesn't say all of the</p> <p>15 world's top fighters, it says the vast majority of</p> <p>16 the world's top fighters, that Deutsche Bank with</p> <p>17 Zuffa's assistance is -- is putting out there in the</p> <p>18 world.</p> <p>19 Would you agree that in or about 2007, after</p> <p>20 the acquisition of Pride, that Zuffa at that time had</p> <p>21 the vast majority of the world's top fighters under</p> <p>22 one umbrella?</p> <p>23 MR. ISAACSON: Objection to form.</p> <p>24 A. Yeah, the hard part of that, I think, is</p> <p>25 it's just opinion.</p>	<p>1 SILVA</p> <p>2 MR. ISAACSON: Object -- objection.</p> <p>3 Argumentative.</p> <p>4 MR. CRAMER: He answered the question.</p> <p>5 It's fine.</p> <p>6 Q. They would -- he wouldn't normally say that</p> <p>7 to you?</p> <p>8 A. It would be kind of strange just to walk</p> <p>9 through pronouncing that we have the majority of the</p> <p>10 world's top fighters.</p> <p>11 Q. So he might have said that publicly;</p> <p>12 correct?</p> <p>13 A. You'd have to --</p> <p>14 MR. ISAACSON: Objection. Calls for</p> <p>15 speculation.</p> <p>16 Q. You've never seen Dana White say that the</p> <p>17 UFC has, in -- in form or substance, the vast</p> <p>18 majority of the world's top fighters publicly?</p> <p>19 A. Dana says a lot of things.</p> <p>20 Q. And you've never seen him say that among</p> <p>21 those things that he says publicly?</p> <p>22 A. I don't recall that exact quote.</p> <p>23 Q. Not exact quote.</p> <p>24 In sum or substance, that the UFC has the</p> <p>25 vast majority of the top MMA talent in the world at</p>

<p style="text-align: right;">46</p> <p>1 SILVA</p> <p>2 any time?</p> <p>3 A. I think that's open to interpretation.</p> <p>4 Q. I know, but I'm asking what Dana -- I'll</p> <p>5 move on.</p> <p>6 A. Okay.</p> <p>7 Q. Turn to page 6738. Under the top where it</p> <p>8 says, "High barriers to entry."</p> <p>9 And the first sentence says: "Over the past</p> <p>10 year, the UFC has achieved unprecedented scale in the</p> <p>11 MMA world through internal growth, strategic</p> <p>12 marketing and timely acquisitions. The UFC is able</p> <p>13 to secure long-term exclusive contracts with the</p> <p>14 world's best MMA fighters because of its ability to</p> <p>15 pay fighters more than competing organizations as</p> <p>16 well as offer fighters significantly more exposure</p> <p>17 that they can monetize through better sponsorship</p> <p>18 agreements, appearance fees and merchandising</p> <p>19 opportunities."</p> <p>20 Do you see that?</p> <p>21 A. Yep.</p> <p>22 Q. Is there anything that I just read to you</p> <p>23 that you disagree with?</p> <p>24 MR. ISAACSON: Objection to form.</p> <p>25 A. Could you rephrase the question, I think?</p>	<p style="text-align: right;">48</p> <p>1 SILVA</p> <p>2 Do you think that -- you think that more</p> <p>3 than 50 percent of the world's best MMA fighters in</p> <p>4 2007 were fighting somewhere else?</p> <p>5 A. It's a big world.</p> <p>6 Q. It's a big world, it's true.</p> <p>7 And you think that the majority of the --</p> <p>8 I'm talking about the top, the world's best MMA</p> <p>9 fighters, the people at the top of their game.</p> <p>10 And your testimony is that you don't know</p> <p>11 whether more than 50 percent of the top fighters in</p> <p>12 or about 2007 or 2008 were at the UFC?</p> <p>13 A. That's why I said, I think we had many.</p> <p>14 Q. But not most?</p> <p>15 A. Are you saying the most in the world or more</p> <p>16 than any other organization? Could you be more</p> <p>17 clear?</p> <p>18 Q. All right. More than any other</p> <p>19 organization; would you agree with me there?</p> <p>20 A. At the moment, yes.</p> <p>21 Q. In 2007 to 2008?</p> <p>22 A. Yeah.</p> <p>23 Q. Who was the next MMA promotion after the UFC</p> <p>24 that in your mind at that time had the most, after</p> <p>25 the UFC, top MMA fighters?</p>
<p style="text-align: right;">47</p> <p>1 SILVA</p> <p>2 Q. Yeah. Is there anything -- well, I will</p> <p>3 rephrase.</p> <p>4 Let's -- let's focus on the second sentence:</p> <p>5 "The UFC is able to secure long-term exclusive</p> <p>6 contracts with the world's best MMA fighters."</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Is -- is that an accurate statement, that in</p> <p>10 or about 2007, the UFC was able to secure long-term</p> <p>11 exclusive contracts with the world's best MMA</p> <p>12 fighters?</p> <p>13 A. I would say with many of the world's best</p> <p>14 fighters. There's examples of ones that were not.</p> <p>15 Q. Right. But many of them?</p> <p>16 A. Say Fada was considered to be the best</p> <p>17 fighter in the world, we never had a contract with</p> <p>18 him.</p> <p>19 Q. Emelianenko?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Would you agree with me that the UFC</p> <p>22 was able to secure long-term exclusive contracts with</p> <p>23 most of the world's best MMA fighters?</p> <p>24 A. I would say with many.</p> <p>25 Q. Not most?</p>	<p style="text-align: right;">49</p> <p>1 SILVA</p> <p>2 A. I'm really bad with time placement as far as</p> <p>3 there, but there's always -- since the original UFC,</p> <p>4 there's always been competitors who have outbid us</p> <p>5 for name fighters since the very beginning, whether</p> <p>6 it was Extreme Fighting or World Combat Championships</p> <p>7 or Martial Arts Reality Superfighting. Later on, you</p> <p>8 had, like, the Affliction show, you had Strikeforce,</p> <p>9 you had many, many other MMA organizations that --</p> <p>10 Q. So --</p> <p>11 A. -- bid top dollar on high-level fighters.</p> <p>12 Q. You -- you mentioned Affliction and</p> <p>13 Strikeforce. Anybody else? Bellator?</p> <p>14 A. Bellator.</p> <p>15 Q. Who else? Pride?</p> <p>16 A. Certainly Pride. Even ones that were not</p> <p>17 considered as big. There's an organization in Japan</p> <p>18 called Shooto that had what all the critics thought</p> <p>19 were the best lighter weight fighters in the world.</p> <p>20 Q. Anybody else?</p> <p>21 A. There's just --</p> <p>22 MR. ISAACSON: Objection to form.</p> <p>23 A. -- numerous.</p> <p>24 Q. So the UFC bought Pride; right?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">50</p> <p>1 SILVA</p> <p>2 Q. And the UFC bought -- or merged with</p> <p>3 Strikeforce in or about 2010; right?</p> <p>4 A. Yes.</p> <p>5 Q. And the UFC -- and Affliction went out of</p> <p>6 business; correct?</p> <p>7 A. Yes.</p> <p>8 Q. They now just sell clothing; correct?</p> <p>9 A. (Nods head up and down.)</p> <p>10 Q. What about the first three that you</p> <p>11 mentioned, World -- I'm sorry, I didn't write it</p> <p>12 down.</p> <p>13 A. World Combat Championships.</p> <p>14 Q. Is that still in business?</p> <p>15 A. No. That went away.</p> <p>16 Q. That went away. When did that go away?</p> <p>17 A. Early on.</p> <p>18 Q. What about Martial Arts --</p> <p>19 A. Reality Superfighting.</p> <p>20 Q. That's not in business anymore, is it?</p> <p>21 A. No.</p> <p>22 Q. When did that go out of business?</p> <p>23 A. Early on.</p> <p>24 Q. And Shooto, is that still in business?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">52</p> <p>1 SILVA</p> <p>2 Q. In other words, UFC acquired more top talent</p> <p>3 by the acquisition of Pride; correct?</p> <p>4 MR. ISAACSON: Objection to form.</p> <p>5 A. I think there were -- there was positive</p> <p>6 things to it, but to the majority of American fans,</p> <p>7 Pride was a Japanese organization. The majority of</p> <p>8 American fans did not know what Pride was. So it --</p> <p>9 it's good to bolster the roster with good talent. As</p> <p>10 far as what that did to the status of the UFC with</p> <p>11 American fans, I don't know.</p> <p>12 Q. So in your opinion, American fans are, all</p> <p>13 things equal, more interested in fighters that are</p> <p>14 known to Americans?</p> <p>15 MR. ISAACSON: Objection to request for</p> <p>16 opinion.</p> <p>17 A. Yeah, I think that's wherever you're at. I</p> <p>18 think in Japan they're more interested in fighters</p> <p>19 who fight in Japan. You're interested in who you're</p> <p>20 familiar with --</p> <p>21 Q. Right.</p> <p>22 A. -- until you become familiar with them.</p> <p>23 Q. So until the popularity of a particular</p> <p>24 foreign fighter gets known in the United States,</p> <p>25 they're -- they're less valuable as a fighter to a</p>
<p style="text-align: right;">51</p> <p>1 SILVA</p> <p>2 Q. And Bellator is still in business?</p> <p>3 A. Yes.</p> <p>4 Q. So anybody else -- any other MMA promotions</p> <p>5 that in your mind competed with the UFC for top</p> <p>6 talent?</p> <p>7 A. Yeah. I mean, there's still -- there's --</p> <p>8 MR. ISAACSON: Objection to form.</p> <p>9 Q. Go ahead.</p> <p>10 A. -- tons around the world. There's things</p> <p>11 like KSW in Poland who had some top fighters who are</p> <p>12 big draws for them. There's shows in Asia, like IFC,</p> <p>13 that have a lot of excellent lighter weight talent.</p> <p>14 There's just -- every day another show seems to pop</p> <p>15 up.</p> <p>16 Q. Would you agree with me during -- that</p> <p>17 from 2000 -- at least from 2007 to the present, the</p> <p>18 UFC had more of the top talent than any one of these</p> <p>19 entities; is that fair?</p> <p>20 A. In my opinion, yes.</p> <p>21 Q. And would you agree with me that the UFC's</p> <p>22 relative stature to all of these other entities</p> <p>23 changed in the UFC's favor when the UFC bought Pride,</p> <p>24 for example?</p> <p>25 MR. ISAACSON: Objection to form.</p>	<p style="text-align: right;">53</p> <p>1 SILVA</p> <p>2 U.S. organization; is that fair?</p> <p>3 A. People will dispute what is valuable. If</p> <p>4 you're talking in terms of making an immediate</p> <p>5 financial impact, maybe not so much. But if you just</p> <p>6 believe in their talent and that one day they'd be a</p> <p>7 champion, then it's valuable.</p> <p>8 Q. Right. So over --</p> <p>9 A. There's different ways to look at it.</p> <p>10 Q. So over time, if you -- if Zuffa acquires a</p> <p>11 foreign entity with a number of unknown but talented</p> <p>12 foreign stars, that could, over time, develop into a</p> <p>13 very popular roster of fighters, but at least</p> <p>14 initially it might not be so in the United States; is</p> <p>15 that fair?</p> <p>16 MR. ISAACSON: Objection to form.</p> <p>17 A. Yeah, there's no guarantee. And we've had</p> <p>18 big champion stars come out of very small regional</p> <p>19 unknown promotions.</p> <p>20 Who actually rises to the top or not is one</p> <p>21 of the fascinating things in this sport. And I wish</p> <p>22 that I could say that I knew for sure who those would</p> <p>23 be. It would have made my life, my job a lot easier.</p> <p>24 But you just don't. All you can do is give people an</p> <p>25 opportunity, and -- and some will succeed really well</p>

<p style="text-align: right;">54</p> <p>1 SILVA</p> <p>2 and some will not.</p> <p>3 Q. But there is a -- I -- I take it from your</p> <p>4 testimony that there is a substantial geographic</p> <p>5 nature to the -- to the fight business, and that</p> <p>6 fighters that are -- tend to be popular and known,</p> <p>7 say, in Japan, might not necessarily be popular and</p> <p>8 known in the United States; is that fair?</p> <p>9 MR. ISAACSON: Objection to form. Calls</p> <p>10 for opinion.</p> <p>11 A. I think it's just kind of common sense that</p> <p>12 people tend to identify more with people that they</p> <p>13 relate to; that if you're going to do a show in</p> <p>14 Brazil, you probably should have some Brazilians on</p> <p>15 it.</p> <p>16 Q. And if you do a show in the United States,</p> <p>17 you're more likely to be successful, in your view, if</p> <p>18 you have fighters that are known to the U.S.</p> <p>19 audience; is that fair?</p> <p>20 A. I would say the United States is a bit</p> <p>21 different in that it's more of a -- a melting pot.</p> <p>22 Q. But you said before that if you just bring</p> <p>23 in a bunch of fighters from Pride that are in Japan,</p> <p>24 it's going to take a little bit more time for them to</p> <p>25 be popular and known in the U.S. audience; is that</p>	<p style="text-align: right;">56</p> <p>1 SILVA</p> <p>2 MR. ISAACSON: Objection. Foundation.</p> <p>3 A. Yeah, could you be more specific? Because I</p> <p>4 disagree with the -- the statement.</p> <p>5 Q. Okay. Please turn to page Zuffa 6751, it's</p> <p>6 page 28 of the document. At the bottom of the page</p> <p>7 under "Talent recruitment and development" -- well,</p> <p>8 if you look, actually, in the box, there's a blue box</p> <p>9 in the middle of the page entitled "Talent</p> <p>10 recruitment and development."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. And the second bullet point says:</p> <p>14 "Aggressive lateral hiring from and acquisition of</p> <p>15 competitors."</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Is that a fair description of what Zuffa was</p> <p>19 doing in or about 2007 or 2008?</p> <p>20 MR. ISAACSON: Objection. Form.</p> <p>21 Foundation.</p> <p>22 A. The -- yeah, we tried to get the best</p> <p>23 fighters in the world.</p> <p>24 Q. And you tried to get them signed up to</p> <p>25 long-term exclusive contracts, like it says in the</p>
<p style="text-align: right;">55</p> <p>1 SILVA</p> <p>2 fair?</p> <p>3 A. Well, the -- the hard thing is if you</p> <p>4 brought in one person, you could put a spotlight on</p> <p>5 that one person, so it -- it would be easier to pay</p> <p>6 attention to them. If you bring a bunch of people</p> <p>7 over, that spotlight is dissipated, so it could be</p> <p>8 harder to spotlight them all. So there's -- there's</p> <p>9 always pluses and minuses.</p> <p>10 Q. Okay. Fair enough.</p> <p>11 Will you turn to the bottom of the page we</p> <p>12 were looking at in Silva Exhibit 1. It says: "In</p> <p>13 summary, to effectively compete with the UFC, a</p> <p>14 competitor would need proper infrastructure,</p> <p>15 substantial content to market upcoming fights,</p> <p>16 effective television distribution, a deep line-up of</p> <p>17 marquee fighters and adequate resources to satisfy</p> <p>18 the costs of a UFC-level production."</p> <p>19 Do you see that?</p> <p>20 A. Uh-huh.</p> <p>21 Q. Do you agree with that?</p> <p>22 A. No.</p> <p>23 MR. ISAACSON: Objection to form.</p> <p>24 Q. Do you know what is meant by "a deep line-up</p> <p>25 of marquee fighters"?</p>	<p style="text-align: right;">57</p> <p>1 SILVA</p> <p>2 second bullet point there; is that fair?</p> <p>3 A. A lot of fighters are signed to four-fight</p> <p>4 contracts. I would say more are signed to four-fight</p> <p>5 contracts than longer than that.</p> <p>6 Q. And they're exclusive; correct?</p> <p>7 A. Yes.</p> <p>8 Q. If you look to the section of the document</p> <p>9 under "Talent recruitment and development," the</p> <p>10 fourth sentence begins: "UFC athlete."</p> <p>11 "UFC athlete contracts are designed to</p> <p>12 retain talent within the Company."</p> <p>13 Do you see that?</p> <p>14 A. Uh-huh.</p> <p>15 Q. So --</p> <p>16 A. Yeah, I see it.</p> <p>17 Q. Yeah. Okay.</p> <p>18 "UFC athlete contracts are designed to</p> <p>19 retain talent within the Company."</p> <p>20 Do you agree with that?</p> <p>21 A. I would say for the period of the contract,</p> <p>22 yes.</p> <p>23 Q. And then it says: "Most contracts" -- and</p> <p>24 this is in 2007 to 2008 -- "most contracts are one to</p> <p>25 two years in length, with an exclusivity clause that</p>

<p>58</p> <p>1 SILVA</p> <p>2 prevents fighters from moving to different MMA</p> <p>3 organizations while under contract and with</p> <p>4 negotiation and matching rights after the agreement</p> <p>5 expires."</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Do you agree with that?</p> <p>9 A. Yes.</p> <p>10 Q. And then it says: "Additionally, contracts</p> <p>11 typically give the UFC the right to release athletes</p> <p>12 after one or two fights on the basis of poor</p> <p>13 performance, providing the Company with increased" --</p> <p>14 I'm sorry -- "providing the Company increased</p> <p>15 flexibility."</p> <p>16 Do you agree with that?</p> <p>17 MR. ISAACSON: Objection. Form.</p> <p>18 Foundation.</p> <p>19 A. Yes.</p> <p>20 Q. Then it says: "Furthermore, the UFC</p> <p>21 typically has the right to retain athletes who hold</p> <p>22 the championship title in any weight class at the</p> <p>23 expiration of their contract for one additional year,</p> <p>24 thereby ensuring that the Company continues to</p> <p>25 benefit from such a fighter's potential popularity</p>	<p>60</p> <p>1 SILVA</p> <p>2 deposition.</p> <p>3 A. Yeah.</p> <p>4 Q. Turn to the next page, at the top of the</p> <p>5 page. It says: "Recently Zuffa has acquired the</p> <p>6 assets of several competing MMA brands, including</p> <p>7 Pride, WEC and WFA. Each acquisition had unique</p> <p>8 offensive and defensive purposes at the time; however</p> <p>9 both the WFA and Pride (pending) transactions</p> <p>10 resulted in Zuffa's roster of elite fighters</p> <p>11 expanding significantly."</p> <p>12 Do you agree with that?</p> <p>13 MR. ISAACSON: Objection. Form.</p> <p>14 Foundation.</p> <p>15 A. I think that it increased our roster. I</p> <p>16 think that there were better fighters on the Pride</p> <p>17 roster than the WFA roster.</p> <p>18 Q. So -- but collectively, the acquisition of</p> <p>19 WFA and Pride, you would agree, resulted in Zuffa's</p> <p>20 roster of elite fighters expanding significantly;</p> <p>21 right?</p> <p>22 A. It expanded.</p> <p>23 Q. Significantly; right?</p> <p>24 A. I don't know that I'd say significantly. It</p> <p>25 definitely expanded. We got some good fighters out</p>
<p>59</p> <p>1 SILVA</p> <p>2 through additional promotions and events."</p> <p>3 Do you agree with that?</p> <p>4 A. Yes.</p> <p>5 Q. Then it says: "The UFC's complete control</p> <p>6 and ownership of its content also discourages</p> <p>7 competing organizations from soliciting UFC fighters</p> <p>8 by restricting their ability to market prior fights</p> <p>9 for promotional purposes."</p> <p>10 Is that fair? Do you agree with that?</p> <p>11 MR. ISAACSON: Objection to form.</p> <p>12 Foundation.</p> <p>13 A. Yes.</p> <p>14 Q. Then it says: "Notably, only one marquee</p> <p>15 fighter has ever defected from the UFC to a competing</p> <p>16 MMA organization and that individual later returned</p> <p>17 to compete in the UFC."</p> <p>18 As of the date of that statement, is that</p> <p>19 accurate to your knowledge?</p> <p>20 A. To my knowledge, yes.</p> <p>21 Q. Do you know who that fighter was?</p> <p>22 A. I'm guessing it was B.J. Penn.</p> <p>23 Q. B.J. Penn. And he left and then came back?</p> <p>24 A. Correct.</p> <p>25 Q. You mentioned that at the beginning of the</p>	<p>61</p> <p>1 SILVA</p> <p>2 of it.</p> <p>3 Q. What are elite fighters in your -- how would</p> <p>4 you understand that term?</p> <p>5 A. It becomes about opinion. And for me, being</p> <p>6 kind of a purist, you -- you have what the general</p> <p>7 public looks at, and they go this, I think that these</p> <p>8 guys are great.</p> <p>9 There may have been talent in other</p> <p>10 organizations, like I said, the one that I had</p> <p>11 mentioned, Shooto, that had -- even though they're a</p> <p>12 bit more under the radar, I was much more impressed</p> <p>13 with their talent than I was with a lot of</p> <p>14 better-known fighters in these other organizations.</p> <p>15 But people simply didn't do that research. They were</p> <p>16 not aware of them. So that's what I'm saying.</p> <p>17 I'm not being disingenuous. I really felt</p> <p>18 that there was talent that was overlooked. That</p> <p>19 here's the -- the fighters that people are making a</p> <p>20 big deal about, but I did not necessarily agree that</p> <p>21 they were that good, where I thought there were good</p> <p>22 fighters that may have been going under people's</p> <p>23 radar.</p> <p>24 Q. There were diamonds in the rough that you</p> <p>25 had identified and wanted to bring to the UFC?</p>

<p style="text-align: right;">74</p> <p>1 SILVA</p> <p>2 think that when you're introducing fighters to -- to</p> <p>3 people, they have no idea what their level of talent</p> <p>4 is.</p> <p>5 Competing amongst themselves, you can have</p> <p>6 people who look amazing. Bellator now has a fighter,</p> <p>7 Michael Page, who's looked like a superstar, did not</p> <p>8 look good in his last fight when they stepped up the</p> <p>9 competition a bit, but before that, everybody's like</p> <p>10 this kid will beat everybody in the UFC. And it's</p> <p>11 like, based on what? But people like to sway</p> <p>12 people's opinion on to who is good or not, it's not</p> <p>13 that difficult.</p> <p>14 Q. When you were just recounting that people</p> <p>15 were saying that Page would beat everyone in the UFC,</p> <p>16 you said, based on what. I take it that you were</p> <p>17 skeptical of those statements?</p> <p>18 A. I'm just skeptical of everything. I'm</p> <p>19 skeptical of things we do. I -- that's just my</p> <p>20 nature. Whenever somebody says, I know this is</p> <p>21 what's going to happen, it's just like, how do you</p> <p>22 know. You just see enough sure things not come true</p> <p>23 that, yeah, I don't see any of them as a guarantee.</p> <p>24 MR. CRAMER: All right. You can put that</p> <p>25 aside. I'd like to mark Silva Exhibit 3 as</p>	<p style="text-align: right;">76</p> <p>1 SILVA</p> <p>2 statement as of February of 2013?</p> <p>3 MR. ISAACSON: Objection to form.</p> <p>4 A. Yeah, it's -- I would quibble with just</p> <p>5 the -- the wording of "vast majority," but certainly</p> <p>6 a majority.</p> <p>7 Q. A majority of the top fighters in the world</p> <p>8 under long-term contract with Zuffa in February of</p> <p>9 2013. You would agree with that; correct?</p> <p>10 A. I would disagree with "vast" and I would</p> <p>11 disagree with "long-term." But then that just</p> <p>12 becomes what do you consider long-term or not.</p> <p>13 Q. Okay. We can talk about that in a bit.</p> <p>14 But they had the majority as of February</p> <p>15 of 2013, in your view, while you were there, the UFC</p> <p>16 had the majority of the top fighters of the world</p> <p>17 under exclusive contract; you would agree with that?</p> <p>18 A. Of, yes, perceived top fighters.</p> <p>19 Q. Turn to page 32, which is the Bates</p> <p>20 number 6286. At the top of the page under</p> <p>21 "Athletes," the document says -- Deutsche Bank and</p> <p>22 Zuffa are representing to investors that: "UFC is</p> <p>23 home to the best MMA athletes in the world and is the</p> <p>24 coveted destination for all fighters."</p> <p>25 Do you see that?</p>
<p style="text-align: right;">75</p> <p>1 SILVA</p> <p>2 the next document.</p> <p>3 (Silva Deposition Exhibit 3 marked for</p> <p>4 identification.)</p> <p>5 Q. Silva Exhibit 3 is the third in this set of</p> <p>6 Deutsche Bank Confidential information memoranda,</p> <p>7 it's dated February of 2013, it bears the Bates range</p> <p>8 DB-ZUFFA 6237 through 6313.</p> <p>9 And I take it you have not seen this</p> <p>10 document?</p> <p>11 A. No.</p> <p>12 Q. You have not seen it. Okay.</p> <p>13 I just want to draw your attention to</p> <p>14 page 13, which is Bates number 6267.</p> <p>15 At the bottom of the page the document is --</p> <p>16 the document says: "Creating value for partners</p> <p>17 through superior content."</p> <p>18 And underneath that, it says: "UFC's</p> <p>19 content is highly distinguishable from competitors</p> <p>20 due to a number of factors, including," and I'd just</p> <p>21 like to draw your attention to number 4, repeat</p> <p>22 something we've seen in some of these other</p> <p>23 documents, it says, "the long-term contracts with the</p> <p>24 vast majority of top fighters in the world."</p> <p>25 Would you agree that that's an accurate</p>	<p style="text-align: right;">77</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. Do you agree with that?</p> <p>4 A. Could you repeat, please?</p> <p>5 Q. Sure. Well, let -- let's break it up.</p> <p>6 You would agree that the UFC is the home to</p> <p>7 the best MMA athletes in the world; correct?</p> <p>8 A. To many of the best athletes in the world.</p> <p>9 Q. In the world. Okay.</p> <p>10 And would you also agree that it's generally</p> <p>11 the coveted destination for all of the -- or most of</p> <p>12 the MMA fighters?</p> <p>13 A. Say for many of them.</p> <p>14 Q. Not most?</p> <p>15 A. There -- I mean, there's a certain amount of</p> <p>16 people who have come out and -- and said that they --</p> <p>17 there's other organizations that they want to be a</p> <p>18 part of. So I can't say most, but I would say many.</p> <p>19 Q. Okay. The third sentence begins: "All UFC</p> <p>20 fighters have previous combat sports experience and</p> <p>21 many are NCAA collegiate athletes, All-American</p> <p>22 wrestlers, world champions and Olympic competitors</p> <p>23 and medalists."</p> <p>24 Is that accurate?</p> <p>25 A. Mostly.</p>

<p style="text-align: right;">78</p> <p>1 SILVA</p> <p>2 Q. What's not accurate about it?</p> <p>3 A. There have been a few exceptions. If it's</p> <p>4 C.M. Punk or -- or somebody who did not have a, you</p> <p>5 know, professional sports background.</p> <p>6 Q. But most do?</p> <p>7 A. Most do.</p> <p>8 Q. Okay. And then the next sentence says:</p> <p>9 "All athletes are under long-term, exclusive</p> <p>10 contracts which provide a major competitive advantage</p> <p>11 for the UFC."</p> <p>12 With your quibble about long-term, would you</p> <p>13 agree that all UFC athletes are under exclusive</p> <p>14 contracts?</p> <p>15 A. Yes.</p> <p>16 Q. And would you also agree that that provides</p> <p>17 a competitive advantage for the UFC over its MMA --</p> <p>18 other MMA promotions?</p> <p>19 A. All the major MMA promotions have exclusive</p> <p>20 contracts.</p> <p>21 Q. But the fact that the UFC has the majority</p> <p>22 of them gives the UFC an advantage over MMA</p> <p>23 promotions that don't have the same depth of top</p> <p>24 talent; correct?</p> <p>25 A. No.</p>	<p style="text-align: right;">80</p> <p>1 SILVA</p> <p>2 commissioner of the UFC, Jeff Blatnick, and referee</p> <p>3 John McCarthy to develop the sport's first rule book?</p> <p>4 A. Yes.</p> <p>5 Q. And what was your involvement in that, in</p> <p>6 the creation of that rule book?</p> <p>7 A. We were asked by Bob Marwitz -- we -- we had</p> <p>8 all along kind of given our suggestions, and it kind</p> <p>9 of evolved on a show-by-show basis, like, things</p> <p>10 would happen, it's like, oh, Tank Abbott tried to</p> <p>11 throw a guy over the cage, okay, you can't throw</p> <p>12 people over the cage. It was -- it was such a new</p> <p>13 sport and people had not experienced that, so a lot</p> <p>14 of stuff you just didn't think about until it</p> <p>15 actually happened.</p> <p>16 So as shows went on, eventually we had</p> <p>17 enough of these ideas, like why don't we actually</p> <p>18 form like a committee and -- and really try and nail</p> <p>19 this down.</p> <p>20 Q. And you succeeded to some degree putting</p> <p>21 together a book that had procedures and codes of</p> <p>22 conduct and many of those rules?</p> <p>23 A. Yes.</p> <p>24 Q. And many of those rules are still in</p> <p>25 existence today; is that fair?</p>
<p style="text-align: right;">79</p> <p>1 SILVA</p> <p>2 MR. ISAACSON: Objection to form.</p> <p>3 Q. It doesn't?</p> <p>4 A. No.</p> <p>5 Q. All right. You can put that document aside.</p> <p>6 MR. CRAMER: We've been going for a little</p> <p>7 while. Why don't we take a break.</p> <p>8 THE VIDEOGRAPHER: We're off the record at</p> <p>9 9:29.</p> <p>10 (Recess taken at 9:29 a.m., proceedings</p> <p>11 resumed at 9:40 a.m.)</p> <p>12 THE VIDEOGRAPHER: Here begins Media</p> <p>13 Number 2 in the video-recorded deposition of</p> <p>14 Joseph Silva. We're back on the record at</p> <p>15 9:40.</p> <p>16 BY MR. CRAMER:</p> <p>17 Q. Mr. Silva, is it fair to say that when you</p> <p>18 first became involved with the UFC in the early '90s</p> <p>19 or mid '90s, the sport of mixed martial arts was not</p> <p>20 well regulated?</p> <p>21 A. Yes.</p> <p>22 Q. There were no formal rules at that time?</p> <p>23 A. There were rules, they were just very few.</p> <p>24 Q. And at some point between '94 and 2001, is</p> <p>25 it fair to say that you worked with the former</p>	<p style="text-align: right;">81</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. When you say "the cage," that was in</p> <p>4 existence in '94 to 2001?</p> <p>5 A. Yes, the octagon.</p> <p>6 Q. The octagon was in existence from '94 to</p> <p>7 2001. Who came up with that idea?</p> <p>8 A. It was -- it's in dispute who -- who came</p> <p>9 up. There's a lot of different histories written.</p> <p>10 Was it somebody in production at SEG -- everybody's</p> <p>11 kind of trying to take credit for it, and I don't</p> <p>12 know. I started with the UFC after the first one,</p> <p>13 and it was there from first, so I don't really know.</p> <p>14 Q. So it existed before Zuffa purchased the</p> <p>15 UFC?</p> <p>16 A. Yes.</p> <p>17 Q. Did you work with Mr. Marwitz on that rule</p> <p>18 book?</p> <p>19 A. No.</p> <p>20 Q. What was his role?</p> <p>21 A. He was the owner of SEG.</p> <p>22 Q. So he asked you to work on that rule book?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And he was the owner of Semaphore</p> <p>25 Entertainment Group?</p>

<p style="text-align: right;">82</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And was SEG the first to get the UFC</p> <p>4 on Pay-Per-View? Was it on Pay-Per-View at some</p> <p>5 point --</p> <p>6 A. Yes.</p> <p>7 Q. -- between '94 and 2001?</p> <p>8 A. It was -- from the very first, it was a</p> <p>9 Pay-Per-View.</p> <p>10 Q. Do you know what Mr. Marwitz's role at that</p> <p>11 time was in trying to push for regulation of the</p> <p>12 sport?</p> <p>13 What was he doing at that time?</p> <p>14 A. The push for regulation did not come until</p> <p>15 later. It's my opinion -- they kind of stumbled upon</p> <p>16 this idea, and I don't know, everybody kind of has</p> <p>17 revisionist history, everybody involved with it kind</p> <p>18 of like it was all me, it was all my idea.</p> <p>19 It just seemed like they came across this</p> <p>20 cool concept, figured let's give it a shot, it did</p> <p>21 well, all right, let's do more. And -- and then as</p> <p>22 it continued to grow, it's like, oh, this is actually</p> <p>23 a long-time viable thing, and -- and that's when you</p> <p>24 had to start looking at it more, well, we're going to</p> <p>25 have to tighten this up.</p>	<p style="text-align: right;">84</p> <p>1 SILVA</p> <p>2 A. That's correct.</p> <p>3 Q. I think you'd used the term "matchmaking" as</p> <p>4 that term is used in MMA. Can you just describe in</p> <p>5 your own words as a matchmaker what that is?</p> <p>6 A. Yeah, it's kind of a shorthand, it's not my</p> <p>7 actual title. But if you say to somebody, this is</p> <p>8 our vice president of talent relations, it's like</p> <p>9 what does that mean, what do you do? It's like, oh,</p> <p>10 you know, the fights? Yeah. He -- he put those</p> <p>11 together.</p> <p>12 So it's just -- it's kind of a shorthand. A</p> <p>13 lot of people ask me if I set up dates or things like</p> <p>14 that --</p> <p>15 Q. Right.</p> <p>16 A. -- it's not.</p> <p>17 Q. Yeah. Right. You're not Love Connection.</p> <p>18 A. No, I am not.</p> <p>19 Q. Prior to the UFC's merger with the WEC in or</p> <p>20 about 2006, you handled the matchmaking</p> <p>21 responsibilities for all of the weight classes; is</p> <p>22 that right?</p> <p>23 A. I'm sorry, state the time again.</p> <p>24 Q. Yeah. Prior to the merger with the WEC in</p> <p>25 2006 --</p>
<p style="text-align: right;">83</p> <p>1 SILVA</p> <p>2 Q. And that description, is that an apt</p> <p>3 description of what was going on between '94 and</p> <p>4 2001?</p> <p>5 MR. ISAACSON: Objection to form.</p> <p>6 A. I'm not -- I don't understand.</p> <p>7 Q. Well, you just described they came upon an</p> <p>8 idea, and you -- you told a little bit of a story</p> <p>9 about how that idea developed and --</p> <p>10 A. Uh-huh.</p> <p>11 Q. -- became successful. And I'm asking</p> <p>12 whether that description you just gave applied to the</p> <p>13 UFC at the period before Zuffa purchased UFC or after</p> <p>14 or both?</p> <p>15 A. I think it's continually evolved. I think</p> <p>16 it's still evolving to this day. Relative to other</p> <p>17 sports, the UFC is incredibly young, to have been</p> <p>18 around 22 years or whatever it's been. It -- it's</p> <p>19 not very long as compared to boxing or football or</p> <p>20 basketball or anything. So there's still a lot of</p> <p>21 learning to be done and -- and better ways to do it.</p> <p>22 Q. Right. What I'm trying to get at is the</p> <p>23 basic idea for the sport and the octagon and the</p> <p>24 early rule book, those were all in existence prior to</p> <p>25 Zuffa's purchase of the UFC; is that right?</p>	<p style="text-align: right;">85</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. -- you handled all of the weight classes?</p> <p>4 A. Correct. But also every match that I made</p> <p>5 was subject to approval. And if it was a</p> <p>6 championship match or a co-main event, then that</p> <p>7 might be something that's handed to me by Dana, by</p> <p>8 Lorenzo. They had the say over everything, but I was</p> <p>9 the hands-on person for most of it.</p> <p>10 Q. And when you say Dana and Lorenzo, you mean</p> <p>11 Dana White and Lorenzo Fertitta?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And after 2006 or after the merger</p> <p>14 with the WEC, you did matchmaking for lightweight and</p> <p>15 above?</p> <p>16 A. That is correct.</p> <p>17 Q. And lightweight is 155 pounds; is that</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 Q. And Shelby did for everything below that?</p> <p>21 A. That's correct.</p> <p>22 Q. Okay. And that's 145 pounds and -- and</p> <p>23 below, that's what Shelby did?</p> <p>24 A. Yes.</p> <p>25 Q. And did Shelby also do the women's weight</p>

<p style="text-align: right;">86</p> <p>1 SILVA</p> <p>2 classes?</p> <p>3 A. Yes. Which falls into those weight</p> <p>4 categories as well.</p> <p>5 Q. Right. Okay.</p> <p>6 MR. CRAMER: All right. I'd like to mark</p> <p>7 a compilation of texts just to get it into the</p> <p>8 record, and show you that this is what was</p> <p>9 produced to us. So I'm going to mark as Silva</p> <p>10 Exhibit 4 a text compilation.</p> <p>11 (Silva Deposition Exhibit 4 marked for</p> <p>12 identification.)</p> <p>13 Q. And I believe the copy we gave you doesn't</p> <p>14 have the Bates number. The Bates number that it was</p> <p>15 produced to us with is ZFL-2699672. All right. And</p> <p>16 this exhibit is a compilation of text messages</p> <p>17 produced by Zuffa to us in this litigation from Dana</p> <p>18 White, I guess on behalf of Dana White.</p> <p>19 And I'm going to be asking you some</p> <p>20 questions relating to texts that appear in this</p> <p>21 compilation. But that's where the texts that I'm</p> <p>22 going to be asking you about come from.</p> <p>23 A. Okay.</p> <p>24 Q. All right. I'm going to show you what we'd</p> <p>25 like to mark as Silva Exhibit 5 as the next document.</p>	<p style="text-align: right;">88</p> <p>1 SILVA</p> <p>2 MR. ISAACSON: We've got page numbers on</p> <p>3 this. Do you just have a page number you can</p> <p>4 tell me?</p> <p>5 Q. While these questions are being asked, maybe</p> <p>6 take a look at the -- at the exhibit because I'm</p> <p>7 going to be asking you about it, so --</p> <p>8 A. Okay.</p> <p>9 Q. Thank you. If you can look at the --</p> <p>10 A. I read it.</p> <p>11 Q. You read it, okay. It's not that long.</p> <p>12 MR. CRAMER: Do you know where it is?</p> <p>13 MR. ISAACSON: 84, he tells me.</p> <p>14 MR. CRAMER: Okay.</p> <p>15 Q. All right. So Silva 5 includes three text</p> <p>16 messages. The first one is from Silva to</p> <p>17 [REDACTED]</p> <p>18 Would you agree with me that the</p> <p>19 [REDACTED] number is one of Dana White's numbers?</p> <p>20 A. I believe so.</p> <p>21 Q. Okay. And so this -- the top text is dated</p> <p>22 June 28th, 2014, at 7:11:01 p.m., and it's from you</p> <p>23 to Mr. White, and you write: "Gomi is asking to</p> <p>24 fight Khabib. Khabib is ranked number 4, while Gomi</p> <p>25 isn't even top 15. I think it is a terrible</p>
<p style="text-align: right;">87</p> <p>1 SILVA</p> <p>2 (Silva Deposition Exhibit 5 marked for</p> <p>3 identification.)</p> <p>4 Q. So Silva Exhibit 5, as it says at the top,</p> <p>5 the source is ZFL-2699672 at Rows 2181 to 83, so we</p> <p>6 drew this from that compilation that we just looked</p> <p>7 at, that Silva Exhibit 4.</p> <p>8 And --</p> <p>9 MR. ISAACSON: So how do I find this in</p> <p>10 here?</p> <p>11 MR. CRAMER: It is at rows 2181 to 83.</p> <p>12 I'm not actually sure --</p> <p>13 MR. MCSWEENEY: The rows aren't numbered,</p> <p>14 but we can -- do you have a --</p> <p>15 MR. MADDEN: I believe it's in</p> <p>16 chronological order.</p> <p>17 MR. MCSWEENEY: What's that?</p> <p>18 MR. MADDEN: I believe it's in</p> <p>19 chronological order.</p> <p>20 MR. MCSWEENEY: It should be.</p> <p>21 MR. CRAMER: And the -- then these --</p> <p>22 MR. MADDEN: Oh, it's not, it's in the</p> <p>23 alphanumeric order that it was produced in.</p> <p>24 MR. MCSWEENEY: We can -- I can pull up</p> <p>25 the electronic.</p>	<p style="text-align: right;">89</p> <p>1 SILVA</p> <p>2 stylistic match for him. Khabib will wrestle him to</p> <p>3 death."</p> <p>4 MR. ISAACSON: So my preference -- since</p> <p>5 this is only part -- there are more text</p> <p>6 messages as part of this chain.</p> <p>7 MR. CRAMER: Okay.</p> <p>8 MR. ISAACSON: So I'd rather if he would</p> <p>9 look at page 84 so that he could have -- if</p> <p>10 this was the complete text message chain, I</p> <p>11 would have no problem with it, but it's not.</p> <p>12 MR. CRAMER: Okay. I think that there are</p> <p>13 texts in between that don't relate to this</p> <p>14 conversation --</p> <p>15 MR. ISAACSON: They're just --</p> <p>16 MR. MCSWEENEY: No, no --</p> <p>17 MR. ISAACSON: They're just continuing</p> <p>18 ones.</p> <p>19 MR. CRAMER: Okay.</p> <p>20 MR. ISAACSON: There's nothing in between.</p> <p>21 These are three continuous texts, but there's</p> <p>22 more texts.</p> <p>23 Q. All right. You can -- do you see page 84 of</p> <p>24 10 -- 1446 in Silva Exhibit 4?</p> <p>25 A. Uh-huh.</p>

<p style="text-align: right;">98</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 And the problem with something like this,</p> <p>4 too, is it's not just the Gomi part. How would I</p> <p>5 bring that to Khabib? I'm looking at Khabib's side</p> <p>6 of it. He's going, I'm highly ranked, I would like</p> <p>7 to get in position to fight for a title, and beating</p> <p>8 Gomi is not going to help me elevate myself.</p> <p>9 Q. So top fighters, like Khabib, who was</p> <p>10 number 4 at the time, he's going to want to fight</p> <p>11 other top fighters in order to get a chance to</p> <p>12 contend for the title; correct?</p> <p>13 MR. ISAACSON: Objection. Calls for</p> <p>14 speculation.</p> <p>15 A. Correct.</p> <p>16 Q. What ended up happening here, do you</p> <p>17 remember?</p> <p>18 A. I don't recall. I don't remember who Gomi</p> <p>19 went on to fight.</p> <p>20 Q. And -- and just so I'm clear, one way a</p> <p>21 fighter can become a contender is by defeating</p> <p>22 higher-ranked opponents?</p> <p>23 A. Yes.</p> <p>24 Q. And so if you keep defeating higher-ranked</p> <p>25 opponents, eventually you'll be able to fight for the</p>	<p style="text-align: right;">100</p> <p>1 SILVA</p> <p>2 Q. I'm sorry, 25 to 26.</p> <p>3 And in particular, the text that was sent to</p> <p>4 you dated 2/27/15 at 18:07. So at the very bottom of</p> <p>5 the page. And I believe the --</p> <p>6 MR. ISAACSON: I'm sorry, bottom of which</p> <p>7 page?</p> <p>8 MR. CRAMER: Bottom of page 25.</p> <p>9 MR. ISAACSON: Oh, there. I see it.</p> <p>10 Yeah.</p> <p>11 MR. CRAMER: There's a blank, the blanks</p> <p>12 are Silva.</p> <p>13 MR. ISAACSON: Okay.</p> <p>14 MR. CRAMER: I'll represent to you that</p> <p>15 the blanks are Silva.</p> <p>16 Q. And the from is [REDACTED].</p> <p>17 Do you recognize that phone number?</p> <p>18 Is that John Crouch?</p> <p>19 A. I don't know.</p> <p>20 Q. Okay. Who is John Crouch?</p> <p>21 A. John Crouch is a trainer and manager.</p> <p>22 Q. Okay. We believe it's John Crouch. If --</p> <p>23 if the context allows you to confirm that for me,</p> <p>24 please do.</p> <p>25 So the person who texted to you on 2/27/15</p>
<p style="text-align: right;">99</p> <p>1 SILVA</p> <p>2 championship; is that right?</p> <p>3 A. The -- what -- the one problem with that is</p> <p>4 in a match-up somebody is always going to be ranked</p> <p>5 lower.</p> <p>6 Q. Right.</p> <p>7 A. So it's not that you can't still elevate off</p> <p>8 a lower, but it's how much lower.</p> <p>9 Q. I see. So if your -- if your goal as a</p> <p>10 fighter is to contend for the title, you -- you do,</p> <p>11 in general, want to continue to fight top-ranked</p> <p>12 opponents; is that right?</p> <p>13 A. Correct.</p> <p>14 MR. CRAMER: Okay. All right. I'd like</p> <p>15 to mark as Silva Exhibit 6 the next text</p> <p>16 compilation.</p> <p>17 (Silva Deposition Exhibit 6 marked for</p> <p>18 identification.)</p> <p>19 Q. All right. This is -- this compilation is</p> <p>20 Bates ZFL-2699690. And this document was produced by</p> <p>21 Zuffa to us as a compilation of text messages that</p> <p>22 had been pulled from your phone. And the interchange</p> <p>23 I'd like to ask you about is on page 24 to 25 of</p> <p>24 Exhibit 6, so 24 of 163.</p> <p>25 MR. MADDEN: It's 25 to 26.</p>	<p style="text-align: right;">101</p> <p>1 SILVA</p> <p>2 at 18:07 said: "What did you think of the Ben v.</p> <p>3 Tyron match-up."</p> <p>4 And you say: "I like it."</p> <p>5 And he responded: "Think we could do five</p> <p>6 rounds? Would like to have some time to wear these</p> <p>7 guys down."</p> <p>8 And you say: "Probably not. Only main</p> <p>9 events are five rounds and those are i stalky main</p> <p>10 events or the highest ranked, biggest draws</p> <p>11 available. We have main events locked in through</p> <p>12 June."</p> <p>13 Can you recall that you sent at least the</p> <p>14 last text there, the "probably not"? Does that sound</p> <p>15 like you?</p> <p>16 A. Yeah. I don't dispute it.</p> <p>17 Q. Okay. And you -- "i stalky" looks like an</p> <p>18 i-correct or some kind of --</p> <p>19 A. Yeah, it has later on, it says, like, "darn</p> <p>20 auto correct."</p> <p>21 Q. Yeah. So what -- what did you think</p> <p>22 "i stalky" meant?</p> <p>23 A. (Reading.) I'm not sure. But what I was</p> <p>24 telling him, as said in the last sentence, was that</p> <p>25 we already had all the main events through that time</p>

<p style="text-align: right;">102</p> <p>1 SILVA</p> <p>2 period locked in.</p> <p>3 Q. Okay. So I just want to understand some of</p> <p>4 the context here, if I might.</p> <p>5 A. Uh-huh.</p> <p>6 Q. Is it correct that when selecting -- well,</p> <p>7 what are main events? Let's start there.</p> <p>8 A. It's the final fight of the show, the</p> <p>9 most -- the -- the show you're kind of putting the</p> <p>10 most promotion and advertising on --</p> <p>11 Q. And that's --</p> <p>12 A. -- fight --</p> <p>13 Q. That's the main fight that you use as the</p> <p>14 draw to the event?</p> <p>15 A. Yes.</p> <p>16 Q. And in those main events, you look to use</p> <p>17 the biggest drawing fighters; correct?</p> <p>18 A. That are available at the time, yes.</p> <p>19 Q. That are -- okay. That are available at the</p> <p>20 time. And those include some of the highest-ranked</p> <p>21 fighters; correct?</p> <p>22 A. Sometimes.</p> <p>23 Q. Why is it that you seek to populate the main</p> <p>24 events with the biggest draws as fighters?</p> <p>25 A. Because you would like people to buy tickets</p>	<p style="text-align: right;">104</p> <p>1 SILVA</p> <p>2 better-known fighters; is that fair?</p> <p>3 A. Yes.</p> <p>4 Q. All right. If you turn to -- one second.</p> <p>5 All right. Turn to page 2 of the compilation,</p> <p>6 please, Silva Exhibit 6. And if I could draw your</p> <p>7 attention to -- to a text that was sent to you dated</p> <p>8 January 31st, 2015, at 1:46 p.m., sort of in the</p> <p>9 middle of the page. The blanks, again, are you. And</p> <p>10 this was sent to you by [REDACTED]. And I'll</p> <p>11 represent to you that that is Rob Haydak, Paul</p> <p>12 Felder's representative.</p> <p>13 A. Okay.</p> <p>14 Q. Does that ring a -- is that -- did you know</p> <p>15 that that was his phone number?</p> <p>16 A. No. I don't know any phone number because</p> <p>17 it's cell phones, I just hit the name.</p> <p>18 Q. Exactly. Okay. Understood.</p> <p>19 But we believe that that is Rob Haydak.</p> <p>20 A. Okay.</p> <p>21 Q. Who is Paul Felder?</p> <p>22 A. He is a lightweight fighter in the UFC.</p> <p>23 Q. And Paul Felder is a fighter representative;</p> <p>24 is that right? I'm sorry, Rob Haydak --</p> <p>25 A. Rob Haydak is.</p>
<p style="text-align: right;">103</p> <p>1 SILVA</p> <p>2 to it, to tune in on TV to watch it. And they're</p> <p>3 going to want to see the biggest stars that you have.</p> <p>4 Q. And if you have an event that doesn't have a</p> <p>5 top level, headlining match-up, that could hurt the</p> <p>6 ability of the event to attract an audience; is that</p> <p>7 fair?</p> <p>8 A. It is. And that does happen. As I said,</p> <p>9 it's about what's available. You may want a bigger</p> <p>10 fight for a card, but if people are injured or get</p> <p>11 married or whatever -- you have to work with what you</p> <p>12 have.</p> <p>13 Q. And you'd like to have -- as a matchmaker,</p> <p>14 you'd like to have the -- a complete stable of</p> <p>15 top-level fighters that are available to fight so you</p> <p>16 can create headlining events; correct?</p> <p>17 MR. ISAACSON: Objection. Objection to</p> <p>18 form.</p> <p>19 A. That would be ideal.</p> <p>20 Q. Okay. And you would not headline an MMA</p> <p>21 event at the UFC with two lesser-known or</p> <p>22 lower-ranked fighters if you could help it; correct?</p> <p>23 A. If you could help it.</p> <p>24 Q. And that's because that kind of event would</p> <p>25 not draw as much fan interest as one with</p>	<p style="text-align: right;">105</p> <p>1 SILVA</p> <p>2 Q. -- is a fighter representative?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And he's someone who you've dealt</p> <p>5 with from time to time --</p> <p>6 A. Yes.</p> <p>7 Q. -- or you did when you were at UFC?</p> <p>8 Okay. And he asks: "Do you still need</p> <p>9 someone for Thatch?"</p> <p>10 And you answer: "Who do you have?"</p> <p>11 And then there are -- I'd like you to -- you</p> <p>12 say: "Jonavin Webb 7 and 0."</p> <p>13 And then he says: "If you need me for Feb</p> <p>14 am there."</p> <p>15 And you say --</p> <p>16 A. I think that's somebody else.</p> <p>17 Q. Somebody else. Different one.</p> <p>18 So let's go to C -- I think your answer here</p> <p>19 is: "CFFC champ. Teammate with Felder."</p> <p>20 This is from -- I'm sorry. This is from</p> <p>21 Haydak to you.</p> <p>22 A. Uh-huh.</p> <p>23 Q. He says, CFS -- "CFFC champ." --</p> <p>24 A. Uh-huh.</p> <p>25 Q. -- "Teammate with Felder. Trains with</p>

<p style="text-align: right;">106</p> <p>1 SILVA</p> <p>2 Cerrone. Very tough."</p> <p>3 "It's a main event. I need a name guy,</p> <p>4 preferably one who has fought in the UFC."</p> <p>5 I'm sorry, I skipped over. So he says:</p> <p>6 "CFFC champ. Teammate with Felder. Trains with</p> <p>7 Cerrone. Very tough."</p> <p>8 And then you respond: "It's a main event.</p> <p>9 I need a name guy, preferably one who has fought in</p> <p>10 the UFC."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. What is CFFC?</p> <p>14 A. It's a promotion, fighting promotion.</p> <p>15 Q. And --</p> <p>16 A. Like cage fighting -- fighting championship,</p> <p>17 something like that.</p> <p>18 Q. Okay. So it's a promotion.</p> <p>19 And Mr. Haydak is -- is offering to you a</p> <p>20 fighter who was one of Felder's teammates who trains</p> <p>21 with Cerrone for the fight. Is that what was going</p> <p>22 on?</p> <p>23 A. Yes. He's trying to establish his pedigree.</p> <p>24 Q. I see. Says, he's very tough.</p> <p>25 And then -- and that -- and then you say to</p>	<p style="text-align: right;">108</p> <p>1 SILVA</p> <p>2 that's popular with fans and that's well known; is</p> <p>3 that fair?</p> <p>4 MR. ISAACSON: Objection to form.</p> <p>5 A. That's -- ideally it's always a sliding</p> <p>6 scale, as maybe my text will show. I go, this is</p> <p>7 what I'm looking for; and as time is going by, it's,</p> <p>8 okay, well, what's the next step down. What's the</p> <p>9 next step down. You do the best that you can. You</p> <p>10 have your ideal for it, but then you quite often have</p> <p>11 to settle for less.</p> <p>12 Q. And you prefer name guys who've fought in</p> <p>13 the UFC for main events because they tend to be</p> <p>14 people who are proven and high-quality fighters; is</p> <p>15 that fair?</p> <p>16 MR. ISAACSON: Objection to form.</p> <p>17 A. They at least have a name awareness from UFC</p> <p>18 fans. They go, I know who this guy is.</p> <p>19 Q. And so those fighters who have a UFC</p> <p>20 pedigree will generate more fan interest?</p> <p>21 A. It's not only that. It's also that people</p> <p>22 know, as I had brought up earlier, that competing in</p> <p>23 your first UFC, even for high-level guys, tends to be</p> <p>24 a difficult thing. They have what the commentators</p> <p>25 term "the UFC jitters." For somebody like Quinton</p>
<p style="text-align: right;">107</p> <p>1 SILVA</p> <p>2 him: "It's a main event. I need a name guy,</p> <p>3 preferably one who has fought in the UFC."</p> <p>4 What were you trying to convey to</p> <p>5 Mr. Haydak?</p> <p>6 A. That ideally in the situation what I was</p> <p>7 looking for is somebody who people were familiar with</p> <p>8 since this was the main event.</p> <p>9 Q. And why did you -- why were you telling him</p> <p>10 that you wanted preferably someone who had fought in</p> <p>11 the UFC?</p> <p>12 A. So that fans would have that name</p> <p>13 recognition, why is this guy in the main event?</p> <p>14 Q. And it was your -- you were trying to convey</p> <p>15 that more likely a name guy is going to be someone</p> <p>16 who has a pedigree where he was already established</p> <p>17 in the UFC?</p> <p>18 A. Yes. If you're going to be a main event of</p> <p>19 the UFC, it would make sense that you most likely</p> <p>20 already fought in the UFC.</p> <p>21 Q. Okay. And it's fair to say that in</p> <p>22 selecting main events, you -- you need a name guy,</p> <p>23 generally; is that right?</p> <p>24 A. As best as you can do.</p> <p>25 Q. And a name guy generally means a fighter</p>	<p style="text-align: right;">109</p> <p>1 SILVA</p> <p>2 "Rampage" Jackson, who competed in Pride in front of</p> <p>3 huge crowds, still his first UFC he said he had UFC</p> <p>4 jitters and it's hard.</p> <p>5 So it's a tough situation to put somebody</p> <p>6 into for the first UFC. It's like, hey, you're not</p> <p>7 just making your UFC debut, you're in the main event.</p> <p>8 It's more rounds that you may not be used to. It's a</p> <p>9 tough thing. So you would prefer not to do that.</p> <p>10 Q. So you don't want to take someone who has</p> <p>11 fought in another promotion and may have been</p> <p>12 successful in that other promotion, but -- and -- and</p> <p>13 stick them directly in a main event where they would</p> <p>14 potentially be jittery if they were fighting for</p> <p>15 the --</p> <p>16 A. It's happened. And there are some who've</p> <p>17 done well, but there's also some who've complained.</p> <p>18 There's some who are like, wow, that was -- turned</p> <p>19 out to be an issue. But they would have sworn</p> <p>20 beforehand that it was not going to be an issue. But</p> <p>21 you don't know till you're there.</p> <p>22 But what I like to do is give people the</p> <p>23 best chance to succeed. I'm not trying to get</p> <p>24 anybody to win, but I'm trying to give them the best</p> <p>25 chance to do as well as they can.</p>

<p style="text-align: right;">122</p> <p>1 SILVA</p> <p>2 Q. -- because they've turned down a fight?</p> <p>3 A. No.</p> <p>4 Q. Why not?</p> <p>5 A. Because it's not reasonable. It -- to me --</p> <p>6 it would have to be -- I expect -- if I have a</p> <p>7 two-week dropout, I expect a fighter to say no.</p> <p>8 Q. Okay.</p> <p>9 A. You're asking a lot.</p> <p>10 I just made it a personal policy of mine,</p> <p>11 even if you lost your previous two fights, if you</p> <p>12 chose to fight late notice and lost for your third</p> <p>13 time in a row, I was not going to release you, even</p> <p>14 though it was in my rights to, because you went</p> <p>15 beyond, you -- to me, that -- that is a risk. It is</p> <p>16 hard to -- to take less preparation, and -- and I</p> <p>17 understand that.</p> <p>18 But anytime I ever called, I never put</p> <p>19 pressure on anybody to fight late notice, because I</p> <p>20 very much understood. It's like, this is tough. The</p> <p>21 opponent's had more time to prepare than you.</p> <p>22 Sometimes you get lucky and maybe he had a</p> <p>23 training partner who was fighting near that time so</p> <p>24 he was training a lot and he was in good shape, and</p> <p>25 they're -- they'll jump at it, and go, yes, I'm ready</p>	<p style="text-align: right;">124</p> <p>1 SILVA</p> <p>2 credited it -- he said, when I have too long at camp,</p> <p>3 I accrue more injuries, and I get too much into my</p> <p>4 head; I always stay in good shape, and it was better</p> <p>5 for me to have less.</p> <p>6 But it was -- for most people, I would think</p> <p>7 to have more time to prepare would be better.</p> <p>8 Q. For most people, you would agree that it is</p> <p>9 potentially a risk to have them fight on two weeks'</p> <p>10 notice against someone who has been training for a</p> <p>11 long time?</p> <p>12 MR. ISAACSON: Objection.</p> <p>13 Q. For most people and in general; is that</p> <p>14 fair?</p> <p>15 MR. ISAACSON: Objection to form.</p> <p>16 A. When you say "risk" --</p> <p>17 Q. Risk of -- of having a bad fight, risk of</p> <p>18 being at a disadvantage in that fight. Is that fair?</p> <p>19 A. Yeah, I think --</p> <p>20 MR. ISAACSON: Objection. Vague.</p> <p>21 Compound.</p> <p>22 A. Yeah, I think you're giving yourself less</p> <p>23 time to prepare. And more time, most times it seemed</p> <p>24 to be ideal. But I always noted that, and that's why</p> <p>25 I was never surprised -- if I called somebody to be a</p>
<p style="text-align: right;">123</p> <p>1 SILVA</p> <p>2 to go, I was hoping that something would open up.</p> <p>3 But if they said no, it's like cool, I'm on to the</p> <p>4 next guy.</p> <p>5 Q. So let me just understand. In your opinion,</p> <p>6 offering someone a fight with two weeks' notice could</p> <p>7 be a risk for that fighter if they hadn't been</p> <p>8 training?</p> <p>9 A. Yes. It's certainly ideal to have more time</p> <p>10 to train.</p> <p>11 Q. And it puts that -- that fighter who gets</p> <p>12 this late notice at a disadvantage because the person</p> <p>13 who they are going to be competing against presumably</p> <p>14 would have been training for a long time, whereas</p> <p>15 this person might be in the situation of having to</p> <p>16 train rather quickly; is that fair?</p> <p>17 A. I would think that, but there's also been</p> <p>18 examples where that's been proven to be untrue, where</p> <p>19 the fighter themselves has actually said it was</p> <p>20 beneficial to them to have less time, like Michael</p> <p>21 Bisping when he rematched Luke Rockhold on short</p> <p>22 notice after losing to him when he had full</p> <p>23 preparation. He came off a movie set to be a</p> <p>24 replacement, and knocked out Luke Rockhold and became</p> <p>25 the champion, still currently the champion, and he</p>	<p style="text-align: right;">125</p> <p>1 SILVA</p> <p>2 late notice replacement and they said no, I was never</p> <p>3 surprised or upset about it, because I kind of</p> <p>4 expected that would be the case.</p> <p>5 Q. Is it fair to say that under Zuffa's</p> <p>6 standard contract with fighters, you had the</p> <p>7 discretion to give the fighter an extension of that</p> <p>8 contract for turning down a fight even if it was late</p> <p>9 notice?</p> <p>10 A. That was not my understanding. And I didn't</p> <p>11 really read the contracts. If somebody had a legal</p> <p>12 issue with the contracts, I would refer them to legal</p> <p>13 department. The contracts were revised through the</p> <p>14 years and -- but it was simply my understanding, my</p> <p>15 feeling personally that you had to have what seemed</p> <p>16 to be a reasonable amount of time for somebody to</p> <p>17 prepare if they're going to step into a fight. And</p> <p>18 that if it was particularly short notice, it's not</p> <p>19 reasonable just to insist that they fight.</p> <p>20 Q. Okay. You are aware, though, that there is</p> <p>21 a provision in Zuffa's contracts with fighters that</p> <p>22 if fighters turn down fights, Zuffa can extend the</p> <p>23 term of the contract; correct?</p> <p>24 A. I'm aware of that. But I did not invoke it.</p> <p>25 Q. You did not invoke it in -- in your -- your</p>

<p style="text-align: right;">126</p> <p>1 SILVA</p> <p>2 testimony --</p> <p>3 A. In this sort of situation.</p> <p>4 Q. Right. Your testimony is you did not invoke</p> <p>5 an extension for turning down a fight in a situation</p> <p>6 where you give a fighter late notice, that's what</p> <p>7 you're saying?</p> <p>8 A. Yes.</p> <p>9 Q. And you're saying that because you believe</p> <p>10 it would be unfair to invoke that provision in that</p> <p>11 instance where a fighter has been given late notice;</p> <p>12 is that right?</p> <p>13 A. Yes.</p> <p>14 Q. But you have, during the course of your work</p> <p>15 at Zuffa, caused notices to go out to fighters</p> <p>16 extending the terms of their contracts when they've</p> <p>17 turned down fights; correct?</p> <p>18 A. Yes.</p> <p>19 Q. So what, in your view, is a reasonable</p> <p>20 amount of notice that you believe should be given to</p> <p>21 fighters so that they can be properly ready to fight?</p> <p>22 A. Say between 6 to 8 weeks.</p> <p>23 Q. And in -- is it your view that if you or</p> <p>24 Zuffa gives notice to a fighter that's less than</p> <p>25 6 weeks, that it would be unreasonable for them to be</p>	<p style="text-align: right;">128</p> <p>1 SILVA</p> <p>2 will be very upset that he's turned yet another offer</p> <p>3 down."</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. All right. And I think we've established</p> <p>7 that Stipe is Stipe Miocic?</p> <p>8 A. Yes.</p> <p>9 Q. And he's the current UFC champion?</p> <p>10 A. Yes.</p> <p>11 Q. Heavyweight champion?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Okay. Now, at the bottom of page 2 you say</p> <p>14 to Mr. Kalikas on May 11th, 2011: "If he wins again,</p> <p>15 I will sign him but it has to be against a decent</p> <p>16 opponent. Someone with at least a winning record."</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. What were you trying to convey to</p> <p>20 Mr. Kalikas with this e-mail?</p> <p>21 A. This is what I don't want, is underprepared</p> <p>22 people in the UFC.</p> <p>23 So if the majority of your opponents have</p> <p>24 losing records, they're probably not very good, so it</p> <p>25 doesn't tell me much about your ability. If you at</p>
<p style="text-align: right;">127</p> <p>1 SILVA</p> <p>2 asked to fight?</p> <p>3 A. It would not be something I would want to</p> <p>4 do.</p> <p>5 Q. Okay. All right. Let's look back at this</p> <p>6 document. Mr. Kalikas says to you in the -- on the</p> <p>7 middle of page 3 of the document, on May 11, 2011, at</p> <p>8 9:38, in the third full paragraph he says: "As I've</p> <p>9 mentioned before, another organization (Bellator)</p> <p>10 keeps coming after Stipe hard and they keep upping</p> <p>11 their offer. I want to be clear that I'm not writing</p> <p>12 you this to try to negotiate in any way as money is</p> <p>13 not an issue for Stipe right now. They want to give</p> <p>14 him a spot in their next HW tourney but Stipe's goal</p> <p>15 is to fight for you and become a mainstay in the UFC.</p> <p>16 Assuming he wins June 4th for us (which I have no</p> <p>17 doubt he will), can you guarantee him a</p> <p>18 contract/opportunity with you so he can tell them</p> <p>19 he's no longer on the table?"</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. And then Mr. Kalikas goes on to say: "The</p> <p>23 reason for this request is that Stipe wants to know</p> <p>24 that if he turns them down again, that he will have</p> <p>25 an opportunity with you because more than likely they</p>	<p style="text-align: right;">129</p> <p>1 SILVA</p> <p>2 least have a winning record, I can get a better --</p> <p>3 go, okay, this guy can at least, at this level, beat</p> <p>4 decent people. But there's a lot of managers who've</p> <p>5 had their fighters' records with guys they just</p> <p>6 seemed to find on the street or whatever.</p> <p>7 It's just -- so I said this is the kind of</p> <p>8 thing -- I said I've sent out hundreds of e-mails</p> <p>9 with almost this exact language. It's very</p> <p>10 consistent of, I would like your guy to have more</p> <p>11 experience and have experience against better people.</p> <p>12 But you see, I rarely say -- it's not like</p> <p>13 necessarily name people or in a particular</p> <p>14 organization. It's like, it's not unreasonable for</p> <p>15 us to go "at least a winning record."</p> <p>16 You know, so I could have a winning record</p> <p>17 against people in my neighborhood, but if I have a --</p> <p>18 so you go, what does that really mean. It's like,</p> <p>19 well, it's better than having a losing record to</p> <p>20 people in my neighborhood.</p> <p>21 Q. Right.</p> <p>22 A. It's -- I'm just trying to have some kind of</p> <p>23 thing.</p> <p>24 But he's a -- Stipe's a good-looking</p> <p>25 heavyweight. Muscular. Like -- a lot of</p>

<p style="text-align: right;">130</p> <p>1 SILVA</p> <p>2 heavyweights tend to be a bit softer and all. He</p> <p>3 looks like an athlete and all. So it's not like I</p> <p>4 was not interested, but I wanted to make sure that he</p> <p>5 had the goods, that he could perform well, before</p> <p>6 putting him in that situation.</p> <p>7 Q. Perform well elsewhere before putting him in</p> <p>8 the UFC?</p> <p>9 A. Correct.</p> <p>10 Q. And then you go on to say at the top of</p> <p>11 page 3, you -- you conclude your May 11, 2011, e-mail</p> <p>12 to Mr. Kalikas by saying: "Beating guys with crappy</p> <p>13 records won't convince anyone he's ready for the big</p> <p>14 leagues."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. What did you mean by that?</p> <p>18 A. Exactly what I was saying. To lose -- I</p> <p>19 have to convince fans that somebody's legitimate. I</p> <p>20 have to confuse -- I have to convince athletic</p> <p>21 commissions that this guy is reasonable.</p> <p>22 Especially at the heavyweight division, I</p> <p>23 have less guys, so what -- for him to come in, I have</p> <p>24 less of a choice who to match him up against, and a</p> <p>25 lot of those guys are experienced.</p>	<p style="text-align: right;">132</p> <p>1 SILVA</p> <p>2 be ready. Is that right?</p> <p>3 A. Right. I was saying at the time I did not</p> <p>4 have a spot for him. That's why I didn't just sign</p> <p>5 him. It wasn't like, Bellator wants him, it's like</p> <p>6 oh, he's done. It's like, he does not have enough</p> <p>7 experience yet; if he gets another win and it's</p> <p>8 against a good -- another good person, then I would</p> <p>9 think, yeah, he's at that level now, I could look at</p> <p>10 bringing him in.</p> <p>11 Q. And Kalikas was saying, look, Bellator wants</p> <p>12 him, but what Kalikas was telling you was that Stipe</p> <p>13 really wanted to come to the UFC, that was his dream;</p> <p>14 right?</p> <p>15 A. Yes.</p> <p>16 Q. And -- and you were -- you said he wasn't</p> <p>17 ready for the UFC, for the big leagues; right?</p> <p>18 A. Right. But that can change in a fight.</p> <p>19 That's why I said, one more fight against a guy --</p> <p>20 but it's not just one more fight. If he had taken</p> <p>21 one more fight against a guy with a crummy record,</p> <p>22 then I still wouldn't have signed him. It's got to</p> <p>23 be in this one more fight, he has to fight somebody</p> <p>24 legitimate.</p> <p>25 Q. All right. You can put that document aside.</p>
<p style="text-align: right;">131</p> <p>1 SILVA</p> <p>2 So an athletic commission is going to look</p> <p>3 at him and go, wait, this guy only has this many</p> <p>4 fights and you're putting him in with a guy who's got</p> <p>5 way more fights than him, has way more UFC experience</p> <p>6 than him. Why?</p> <p>7 And the better record you have -- there a</p> <p>8 bunch, yeah, these are things that I could go to the</p> <p>9 commission and go, but look at the guys that he has</p> <p>10 fought, he has beaten guys with winning records, he</p> <p>11 has beaten good guys, this is why I think this is</p> <p>12 reasonable.</p> <p>13 But when they can pick apart and go no,</p> <p>14 everybody he's fought has a losing record, we don't</p> <p>15 think this is a legitimate match, and then I -- the</p> <p>16 match won't be allowed to happen.</p> <p>17 Q. And Stipe was at Bellator at this time?</p> <p>18 A. No. No, he's not in Bellator. He was in</p> <p>19 this other show, and they were saying that Bellator</p> <p>20 is making overtures to him.</p> <p>21 Q. Oh. I see. I see. Bellator is making</p> <p>22 overtures. And what Kalikas was saying is they</p> <p>23 really want to come to the UFC.</p> <p>24 A. Yeah.</p> <p>25 Q. And then you're telling Kalikas, you got to</p>	<p style="text-align: right;">133</p> <p>1 SILVA</p> <p>2 And Stipe, by the way, signed with the UFC</p> <p>3 in or -- in or about June 2011; is that right?</p> <p>4 A. I have no idea on the date.</p> <p>5 Q. Okay. All right.</p> <p>6 MR. CRAMER: I'd like to mark as Silva</p> <p>7 Exhibit 9 the next document.</p> <p>8 (Silva Deposition Exhibit 9 marked for</p> <p>9 identification.)</p> <p>10 Q. All right. Silva Exhibit 9 is a</p> <p>11 January 2015 e-mail exchange. It's a two-page</p> <p>12 document bearing the Bates range ZFL-0872344 through</p> <p>13 345.</p> <p>14 And if you go to the bottom of the first</p> <p>15 page, there's -- the first e-mail is from Mayra</p> <p>16 De Leon?</p> <p>17 A. Uh-huh.</p> <p>18 Q. Who is my Mayra De Leon?</p> <p>19 A. I believe she's somebody who worked with us</p> <p>20 as far as coordinating The Ultimate Fighter.</p> <p>21 Q. The Ultimate Fighter was a TV show?</p> <p>22 A. Yes, reality show.</p> <p>23 Q. That the UFC promoted, put on?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And she is discussing a fighter named</p>

<p style="text-align: right;">134</p> <p>1 SILVA</p> <p>2 Cesar Arzamendia Gonzalez?</p> <p>3 A. Uh-huh.</p> <p>4 Q. Do you know who he is?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Who is he?</p> <p>7 A. He's a fighter.</p> <p>8 Q. Okay. And she says at the bottom: "Hi,</p> <p>9 Cesar Arzamendia Gonzalez said he fought with</p> <p>10 Jungle FC a year ago and he doesn't remember if he</p> <p>11 signed a contract or not."</p> <p>12 You see that?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. What is Jungle FC?</p> <p>15 A. Jungle Fighting Championships. It's a</p> <p>16 Brazilian fight promotion.</p> <p>17 Q. And there's an e-mail in the middle of the</p> <p>18 page from Mr. Ismael, Wallid Ismael.</p> <p>19 A. Yeah, Wallid.</p> <p>20 Q. Wallid. Ismael or Ismael?</p> <p>21 A. That's correct.</p> <p>22 Q. Ismael?</p> <p>23 A. Yeah.</p> <p>24 Q. Wallid Ismael. Dated January 15, 2015, to</p> <p>25 you.</p>	<p style="text-align: right;">136</p> <p>1 SILVA</p> <p>2 us and he can't do it. And we're like, cool, that's</p> <p>3 your guy, no problem. He -- he didn't let us know,</p> <p>4 but we're glad to know that.</p> <p>5 And then there's some who are just like,</p> <p>6 yeah, I have a contract with them, but I'm fine with</p> <p>7 releasing him. It's -- it's not an issue.</p> <p>8 So that was the situation with Wallid. He</p> <p>9 said yes, he did fight my show, yes, he does have a</p> <p>10 contract with me, but it's fine, I'm fine with him</p> <p>11 doing the show.</p> <p>12 Q. So Jungle Fight was okay releasing its</p> <p>13 fighters to the UFC because it was doing a favor for</p> <p>14 one of its fighters; is that right?</p> <p>15 A. Yeah. I think they felt like they were</p> <p>16 trying -- they knew this kid wanted to do the show,</p> <p>17 and they are being nice about it.</p> <p>18 Q. And is Jungle Fight kind of a feeder league</p> <p>19 to the UFC, potentially?</p> <p>20 A. I mean, there's -- there's no official</p> <p>21 feeder leagues. People come in the UFC from every</p> <p>22 single promotion that there are. And other shows get</p> <p>23 our fighters too. So everything's a fighter --</p> <p>24 feeder league for everything.</p> <p>25 Q. But Ismael wanted to -- do you think that</p>
<p style="text-align: right;">135</p> <p>1 SILVA</p> <p>2 A. Uh-huh.</p> <p>3 Q. And he says: "If he fought in Jungle Fight</p> <p>4 he has signed a contract, if it is to fight UFC he's</p> <p>5 released Boss," with a smiley face.</p> <p>6 A. Uh-huh.</p> <p>7 Q. What was he conveying to you?</p> <p>8 A. This was for The Ultimate Fighter, which is</p> <p>9 a bit different than people get in the regular UFC.</p> <p>10 You have a group of fighters who go to try out, and</p> <p>11 then you kind of pick a certain amount, then they</p> <p>12 have to pass background checks and medicals, and in</p> <p>13 the end they'll whittle it down to 16 fighters or 32</p> <p>14 fighters, depending on the format of the season, who</p> <p>15 will compete on it.</p> <p>16 But it's important, obviously, that they're</p> <p>17 not under contract to somebody else. We don't want</p> <p>18 to infringe on somebody else's contract.</p> <p>19 And a lot of times the fighters are very bad</p> <p>20 about reporting or knowing if they're under contract,</p> <p>21 so that's something that we do ask. And if it turns</p> <p>22 out that they are or they might be, we inquire of</p> <p>23 them.</p> <p>24 And there were promotions of -- where</p> <p>25 they're like, no, he -- he's under the contract with</p>	<p style="text-align: right;">137</p> <p>1 SILVA</p> <p>2 Ismael benefitted from allowing his fighters to -- to</p> <p>3 accede up to the UFC? He could promote that to --</p> <p>4 that to new people to join his league?</p> <p>5 A. Yeah, I think it's -- it's helpful for him</p> <p>6 to show that his fighters can compete outside of</p> <p>7 Brazil. It's a Brazilian promotion and people might</p> <p>8 go, all right, we know you're good against these guys</p> <p>9 in Brazil, how do you fare against other people</p> <p>10 around the world.</p> <p>11 Q. And, in particular, at the UFC?</p> <p>12 A. That's one of the promotions outside of</p> <p>13 Brazil.</p> <p>14 Q. All right. Okay. All right. You can put</p> <p>15 that document aside.</p> <p>16 Did Mr. Ismael ever tell you that he -- he</p> <p>17 essentially wanted you to take his guys? Do you</p> <p>18 recall him telling you that?</p> <p>19 A. The league very much liked and respected the</p> <p>20 UFC, so he was always a big proponent. He's just --</p> <p>21 he's a former UFC fighter from back in the day, back</p> <p>22 in SEG day, so I think he just had a certain amount</p> <p>23 of affection for it.</p> <p>24 Q. And he ran an MMA promotion; right?</p> <p>25 A. He did.</p>

<p style="text-align: right;">138</p> <p>1 SILVA</p> <p>2 Q. But he didn't really see his promotion as</p> <p>3 competing directly with the UFC; he saw his promotion</p> <p>4 as on a different level from the UFC?</p> <p>5 A. His --</p> <p>6 MR. ISAACSON: Objection to form.</p> <p>7 Q. Go ahead, you can answer.</p> <p>8 MR. ISAACSON: Calls for speculation.</p> <p>9 Q. You can answer if you understand it.</p> <p>10 A. I'm sure Wallid was very proud of the</p> <p>11 accomplishments of his organization, but I think he</p> <p>12 also had a lot of respect for the UFC.</p> <p>13 Q. And he wasn't trying to compete at the level</p> <p>14 of the UFC; he was running a different kind of</p> <p>15 promotion; correct?</p> <p>16 A. Well, he would do shows in Brazil and we</p> <p>17 would do shows in Brazil. So it's not like there is</p> <p>18 no competition between the two. But he was not a</p> <p>19 worldwide show.</p> <p>20 Q. And he was -- he didn't see himself as</p> <p>21 trying to defeat the UFC; he saw himself as</p> <p>22 benefitting by -- by feeding talent to the UFC; is</p> <p>23 that right?</p> <p>24 A. You'd have to ask him.</p> <p>25 MR. ISAACSON: Objection to form. Calls</p>	<p style="text-align: right;">140</p> <p>1 SILVA</p> <p>2 Q. What did you mean by that?</p> <p>3 A. I think that not -- some promoters can be a</p> <p>4 bit shady, where we've known Wallid for years and</p> <p>5 years, and he was always forthright with us. So he</p> <p>6 was somebody that I felt -- if he told me something,</p> <p>7 I felt comfortable taking his word.</p> <p>8 Like, if he said, hey, you can use my</p> <p>9 fighter, he's demonstrated before that it's not been</p> <p>10 an issue; where there's been other promoters who</p> <p>11 would say, yeah, I'll let them go, but then never</p> <p>12 actually release them, so we couldn't use them and</p> <p>13 they kind of did it to mess with us. So that's the</p> <p>14 assurance I was giving them.</p> <p>15 They're on timetables with production of the</p> <p>16 show for these foreign ultimate fighters. So they're</p> <p>17 kind of asking me, it's like we've got to lock in the</p> <p>18 cast, are we good to go with this guy? We don't have</p> <p>19 anything in writing yet that says we're free and</p> <p>20 clear. I'm like, don't worry about it, Wallid's a</p> <p>21 good guy, if he says that we can use his guy, we can</p> <p>22 use his guy. I felt -- it was still -- it was</p> <p>23 possible he could have reneged on that --</p> <p>24 Q. Right.</p> <p>25 A. -- but he never had.</p>
<p style="text-align: right;">139</p> <p>1 SILVA</p> <p>2 for speculation.</p> <p>3 MR. CRAMER: All right. Well, let's mark</p> <p>4 as Exhibit Silva 10 the next document.</p> <p>5 (Silva Deposition Exhibit 10 marked for</p> <p>6 identification.)</p> <p>7 BY MR. CRAMER:</p> <p>8 Q. Silva 10 is a series of e-mails with a Bates</p> <p>9 range ZFL-0872351 through 2352. And this is another</p> <p>10 January 2015 e-mail exchange in part involving</p> <p>11 Jungle FC. This doesn't include the e-mail that we</p> <p>12 just read from Ismael, instead it includes an e-mail</p> <p>13 from you to Dan Farmer.</p> <p>14 Do you know who Dan Farmer is?</p> <p>15 A. Yes.</p> <p>16 Q. And who is he?</p> <p>17 A. He was kind of the head of production for</p> <p>18 Ultimate Fighter. Especially the international ones.</p> <p>19 Q. And you say in your e-mail to Farmer and</p> <p>20 Shelby, Thursday, January 15, 2015: "Jungle Fight</p> <p>21 promoter Wallid" -- "Wallid Ismael has always been</p> <p>22 very easy to work with. He wants us to take his</p> <p>23 guys."</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">141</p> <p>1 SILVA</p> <p>2 Q. And he wanted you, the -- the UFC, to allow</p> <p>3 the -- his fighters to be promoted from Jungle Fights</p> <p>4 to The Ultimate Fighter and hopefully ultimately to</p> <p>5 the UFC; right?</p> <p>6 A. I think especially if it's a guy like this</p> <p>7 who's an Ultimate Fighter, it wasn't like one of his</p> <p>8 champions or anything like that, he had nothing to</p> <p>9 lose from it, it was simply one of his -- a fighter,</p> <p>10 a guy who had fought for his promotion would get</p> <p>11 exposure in the UFC.</p> <p>12 Q. Okay.</p> <p>13 MR. CRAMER: I'd like to mark the next</p> <p>14 document as Silva Exhibit 11, please.</p> <p>15 (Silva Deposition Exhibit 11 marked for</p> <p>16 identification.)</p> <p>17 Q. All right. This is an e-mail exchange</p> <p>18 between you and Kevin Patrick Lillis, among others,</p> <p>19 spanning from September to October 2014, and it</p> <p>20 bear -- bears the Bates range ZFL-0822197 through</p> <p>21 200.</p> <p>22 The first e-mails are the same as in the --</p> <p>23 an earlier document we just looked at. I'm sorry,</p> <p>24 I'm wrong about that.</p> <p>25 Please turn to the second page and look at</p>

<p style="text-align: right;">142</p> <p>1 SILVA</p> <p>2 the middle of the page. This is an e-mail from</p> <p>3 Mr. Walsh to you -- I'm sorry, this is an e-mail from</p> <p>4 Kevin Patrick. Is that the same thing as Mr. Walsh?</p> <p>5 It's Kevin -- are those two different people?</p> <p>6 A. Yes. Walsh is the fighter.</p> <p>7 Q. I see. Walsh is the fighter.</p> <p>8 And -- and -- and Pat -- and Kevin Lillis.</p> <p>9 Okay.</p> <p>10 So Lillis writes to you, at the top of his</p> <p>11 e-mail dated September 8th, 2014: "Hello, Mr. Silva,</p> <p>12 I'm Kevin Lillis and am managing Pat Walsh. I am the</p> <p>13 CEO of Victory Combat Sports as well, a regional</p> <p>14 promotion in the Northeast (which I hope will become</p> <p>15 a steady feeder to, but is not and will never be a</p> <p>16 competitor to the UFC)."</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. What was, in your understanding, was</p> <p>20 Mr. Lillis trying to tell you in this paragraph in</p> <p>21 this e-mail?</p> <p>22 A. I think that he was obviously introducing</p> <p>23 himself to me. It -- it's clear that he did not know</p> <p>24 me. So in introduction, he's feeling -- thinking</p> <p>25 that it's necessary for him to go, like, hey, I'm a</p>	<p style="text-align: right;">144</p> <p>1 SILVA</p> <p>2 MR. ISAACSON: Objection to form.</p> <p>3 Q. Is that right?</p> <p>4 A. Yes.</p> <p>5 Q. Were there MMA promotions that you</p> <p>6 understood were actually promoting themselves as</p> <p>7 feeding grounds to the UFC?</p> <p>8 A. I think they were very -- at least the smart</p> <p>9 ones were careful about it. But they might tout that</p> <p>10 veterans of their show had gone on, but also have</p> <p>11 touted people going to Pride, going to other big</p> <p>12 events. I mean, there's definitely regional shows,</p> <p>13 smaller shows, and then there's levels above that.</p> <p>14 So some of the much smaller shows I think saw that as</p> <p>15 their role.</p> <p>16 Q. So there are regional shows, and then what</p> <p>17 are the levels above the regional shows?</p> <p>18 A. Well, then when you get to something, if --</p> <p>19 if you're a Strikeforce or a Bellator and anything</p> <p>20 like that, you're -- definitely you're not a regional</p> <p>21 show.</p> <p>22 If you're a show that's only catering to a</p> <p>23 very small market specifically, like we only ever</p> <p>24 hold events in this one state, in this one venue,</p> <p>25 which a lot do, I mean, it's just -- that's a</p>
<p style="text-align: right;">143</p> <p>1 SILVA</p> <p>2 promoter but I'm not after you. It's like, yeah,</p> <p>3 it's fine, I'm happy to talk to promoters who are.</p> <p>4 But he decided to -- to put that in there.</p> <p>5 Q. And do you understand what he meant when he</p> <p>6 said "we hope to become a steady feeder to the UFC"?</p> <p>7 A. Oh, yeah. We had numerous promotions ask to</p> <p>8 be official feeder shows for the UFC. That is a</p> <p>9 benefit to them. But it -- it was something that I</p> <p>10 always thought could be abused, that it would let the</p> <p>11 regional promoter treat their fighters less well,</p> <p>12 because like, look, you want to get in the UFC, this</p> <p>13 is the way to do it. So we never did that. We would</p> <p>14 not give somebody that UFC stamp of approval, and</p> <p>15 then it could be taken advantage of by them against</p> <p>16 the fighter.</p> <p>17 So -- but we had lots of requests. It's</p> <p>18 just kind of lazy on their side. It's like, we don't</p> <p>19 have to go look for good talent, good talent will</p> <p>20 just flock here because they would like to get in the</p> <p>21 UFC one day.</p> <p>22 Q. I see. So there were a number of different</p> <p>23 MMA promotions that saw as a potential business model</p> <p>24 to be a proving ground for MMA athletes, and then</p> <p>25 promote that they would then be fed into the UFC?</p>	<p style="text-align: right;">145</p> <p>1 SILVA</p> <p>2 small-time thing. Doesn't mean they can't have good</p> <p>3 shows or produce some good competition, but that's</p> <p>4 where they see their role.</p> <p>5 Q. What are the promotions out there during the</p> <p>6 course of your work at the UFC that you would</p> <p>7 consider nonregional shows, the sort of next level</p> <p>8 up?</p> <p>9 You mentioned Strikeforce and Bellator.</p> <p>10 Anybody else?</p> <p>11 A. It fluctuates. They sometimes come and go.</p> <p>12 Some seem to be doing better at certain times. And</p> <p>13 then you can kind of argue over that you have shows</p> <p>14 like King of the Cage that's been around forever and</p> <p>15 has hold -- held events all over the place, in -- in</p> <p>16 many different venues, where do you consider them.</p> <p>17 It -- it just is kind of an opinion.</p> <p>18 Q. But it's --</p> <p>19 A. If you ask them, they're definitely one of</p> <p>20 the biggest in the world. They've told me personally</p> <p>21 they think they're bigger than the UFC, so --</p> <p>22 Q. Did you agree with them when they told you</p> <p>23 that?</p> <p>24 A. No. I mean, I think everybody -- if -- if I</p> <p>25 worked for Bellator, I'm pretty sure I would convince</p>

<p style="text-align: right;">146</p> <p>1 SILVA</p> <p>2 myself that Bellator is number one. If I worked for</p> <p>3 Strikeforce, I would -- that's why when you're</p> <p>4 working for something, you want to be the best,</p> <p>5 that's what you're aspiring to be. So it's not</p> <p>6 anything I would even hold against somebody. I kind</p> <p>7 of expect that, that -- that you see yourself in the</p> <p>8 best light, you know what you're trying to accomplish</p> <p>9 and get to, and it would be a little bit weird to</p> <p>10 hold that against them.</p> <p>11 Q. Right. So I'm not asking whether you're</p> <p>12 holding things against them. I'm actually just,</p> <p>13 right now, asking for your view.</p> <p>14 And it's -- it's your view that King of the</p> <p>15 Cage was never on the level of the UFC; correct?</p> <p>16 A. That was my opinion.</p> <p>17 Q. And it's also your view that Bellator was</p> <p>18 never on the level of the UFC?</p> <p>19 A. No, that's not my opinion.</p> <p>20 Q. They -- they, in your view, are on level</p> <p>21 with the UFC?</p> <p>22 A. Yeah, they have fighters who are in the top</p> <p>23 15, in everybody's opinion --</p> <p>24 Q. So --</p> <p>25 A. -- so they're obviously a force.</p>	<p style="text-align: right;">148</p> <p>1 SILVA</p> <p>2 15.</p> <p>3 Q. All right. Would you agree with me that</p> <p>4 from 2007 to 2012, Bellator had far fewer athletes in</p> <p>5 the top 10 or 15 of the weight classes than the UFC;</p> <p>6 correct?</p> <p>7 A. Yes. We had more fighters that were</p> <p>8 considered in the top 15.</p> <p>9 Q. And during 2007 to 2012, the UFC also had</p> <p>10 more shows than Bellator; correct?</p> <p>11 A. We did have more shows.</p> <p>12 Q. Other than Bellator, can you identify</p> <p>13 another promotion that was on the level of the UFC in</p> <p>14 your opinion?</p> <p>15 A. That's out there at this moment?</p> <p>16 Q. Yeah.</p> <p>17 A. I'd say that they're the top. You have now</p> <p>18 the recently rebranded World Series of Fighting</p> <p>19 would -- would be another high ranking one. And they</p> <p>20 had guys who are cracking the rankings, as like</p> <p>21 Justin Gaethje and -- so, yeah, they were -- they</p> <p>22 were an up-and-comer.</p> <p>23 Q. They're an up-and-comer. Not on the level</p> <p>24 of the -- level of the UFC just yet?</p> <p>25 A. Once again, they've been around way less</p>
<p style="text-align: right;">147</p> <p>1 SILVA</p> <p>2 Q. They are a force.</p> <p>3 They have far fewer fighters in the top 15</p> <p>4 than the UFC does; correct?</p> <p>5 A. I'd have to look at the current rankings to</p> <p>6 see the exact number, but they do have</p> <p>7 representation. They have, at the moment, less shows</p> <p>8 than we do.</p> <p>9 Q. They have less shows.</p> <p>10 A. But they've also been doing it way less time</p> <p>11 than we do. If you look at the amount of time that</p> <p>12 they've been around and how many shows they're doing,</p> <p>13 compared to the amount of shows we were doing at that</p> <p>14 time, they were probably doing more than we were.</p> <p>15 Q. So Bellator does fewer shows than the UFC</p> <p>16 and it continues to have fewer of the top 10 or 15</p> <p>17 athletes in every division than the UFC?</p> <p>18 A. But they continue to gain --</p> <p>19 MR. ISAACSON: Object --</p> <p>20 A. -- every year.</p> <p>21 MR. ISAACSON: Objection to form.</p> <p>22 Q. Okay. But it continues to have fewer</p> <p>23 athletes in the top division than the UFC?</p> <p>24 A. No, it does not continue. It continues to</p> <p>25 grow. They continue to get more fighters in the top</p>	<p style="text-align: right;">149</p> <p>1 SILVA</p> <p>2 time.</p> <p>3 Q. Okay. And at some point they might be on</p> <p>4 the level of the UFC, but they're not --</p> <p>5 A. Possible.</p> <p>6 Q. But they're not right now; correct?</p> <p>7 A. Not at the moment.</p> <p>8 Q. All right. So you said World Series of</p> <p>9 Fighting, and Bellator.</p> <p>10 Would -- would another entity during the</p> <p>11 history of your experience at MMA that was</p> <p>12 potentially on the level of the UFC be Strikeforce?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And the UFC acquired Strikeforce;</p> <p>15 correct?</p> <p>16 A. Yes.</p> <p>17 Q. And another entity that was potentially on</p> <p>18 the level of UFC was Pride; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. And the UFC acquired Pride; correct?</p> <p>21 A. Yes.</p> <p>22 Q. And another entity that was potentially on</p> <p>23 the level was WEC; is that right?</p> <p>24 A. It was just different. This -- all our</p> <p>25 plans for it were -- it was like an alternate to UFC,</p>

<p style="text-align: right;">150</p> <p>1 SILVA</p> <p>2 that you would have weight classes that UFC didn't</p> <p>3 have. The other ones are more apples-to-apples</p> <p>4 comparisons. That was kind of a little bit more of</p> <p>5 an apples to oranges.</p> <p>6 Q. Little apples to oranges.</p> <p>7 And the UFC and Zuffa purchased WEC;</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 MR. CRAMER: All right. Why don't we take</p> <p>11 a five-minute break.</p> <p>12 THE WITNESS: Okay.</p> <p>13 THE VIDEOGRAPHER: We're off the record at</p> <p>14 10:58.</p> <p>15 (Recess taken at 10:58 a.m., proceedings</p> <p>16 resumed at 11:07 a.m.)</p> <p>17 THE VIDEOGRAPHER: Here begins Media</p> <p>18 Number 3 in the video-recorded deposition of</p> <p>19 Joseph Silva. We're back on the record at</p> <p>20 11:07.</p> <p>21 BY MR. CRAMER:</p> <p>22 Q. I asked you a series of questions just</p> <p>23 before the break about MMA promotions that in your</p> <p>24 opinion were at or near the level of the UFC between</p> <p>25 2007 and 2012. And I just want to bring that up</p>	<p style="text-align: right;">152</p> <p>1 SILVA</p> <p>2 head.</p> <p>3 Q. Okay. I'll represent to you that we believe</p> <p>4 that that's Sean Shelby's number.</p> <p>5 And do you -- and let me know if that's</p> <p>6 confirmed by the context of the conversation that we</p> <p>7 just -- that we look at in a moment.</p> <p>8 And then there's a number [REDACTED].</p> <p>9 Do you happen to know who that was?</p> <p>10 A. No.</p> <p>11 Q. Okay. All right. I'd like to draw your</p> <p>12 attention in particular to the text message that was</p> <p>13 sent to you by, we believe Sean Shelby.</p> <p>14 MR. MCSWEENEY: We don't have a page.</p> <p>15 A. Yeah, what page?</p> <p>16 Q. I'm sorry. Page 22 of 163 in Exhibit 6.</p> <p>17 And I'm looking at the third text on the page at</p> <p>18 19:26, 2/20/2015.</p> <p>19 And Shelby and one other person send you a</p> <p>20 text that says: "Can you tell me the level of these</p> <p>21 fighters please? Brian Ortega, Michael Prazeres,</p> <p>22 James Moontasri, Neil Magny."</p> <p>23 Do you see that?</p> <p>24 A. Oh. Yes.</p> <p>25 Q. Okay. Brian Ortega was a UFC fighter; is</p>
<p style="text-align: right;">151</p> <p>1 SILVA</p> <p>2 to -- to the present.</p> <p>3 So between 2012 and the present, am I right</p> <p>4 that in your opinion one MMA promotion that might</p> <p>5 have been at the same level of the UFC was Bellator?</p> <p>6 A. Yes.</p> <p>7 Q. And was there another MMA promotion between</p> <p>8 2012 and the present that in your view could have</p> <p>9 been on the same level as -- as the UFC?</p> <p>10 MR. ISAACSON: Objection to form.</p> <p>11 A. As I said, I think the World Series of</p> <p>12 Fighting was trying to establish themselves. They</p> <p>13 had not gotten there yet, but was definitely a</p> <p>14 possible contender.</p> <p>15 Q. So there's Bellator and the World Series of</p> <p>16 Fighting that was trying to be a contender?</p> <p>17 A. Yes.</p> <p>18 Q. All right. Turn to what was marked as Silva</p> <p>19 Exhibit 6, which is the compilation of text messages</p> <p>20 from your phone, I believe.</p> <p>21 A. Uh-huh.</p> <p>22 Q. And I believe we established that</p> <p>23 [REDACTED] was Sean Shelby's phone number. Do</p> <p>24 you recall that?</p> <p>25 A. I don't know his number off the top of my</p>	<p style="text-align: right;">153</p> <p>1 SILVA</p> <p>2 that right?</p> <p>3 A. Yes.</p> <p>4 Q. And was Michael Prazeres a UFC fighter?</p> <p>5 A. Prazeres, yes.</p> <p>6 Q. Okay. And James Moontasri?</p> <p>7 A. Yeah. Moontasri.</p> <p>8 Q. Moontasri. He's a UFC fighter?</p> <p>9 A. He was.</p> <p>10 Q. He was at this time?</p> <p>11 A. Yes.</p> <p>12 Q. And Neil Magny?</p> <p>13 A. Yes.</p> <p>14 Q. A UFC fighter at this time?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And then this must have been Shelby,</p> <p>17 because Shelby says, "Ortega is mine and was</p> <p>18 suspended for roids."</p> <p>19 Does that seem like Shelby?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And then Shelby says, "The rest are</p> <p>22 Joe's, but if you can't get a hold of him: Magny is A</p> <p>23 Other 2 are B."</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">154</p> <p>1 SILVA</p> <p>2 Q. So Shelby is sending you a text and he's</p> <p>3 saying Ortega is mine, and that means, let me know if</p> <p>4 I'm wrong, that Ortega was in the weight classes that</p> <p>5 he oversaw?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And then Shelby says to you: "The</p> <p>8 rest are Joe's but if you can't get hold of him:</p> <p>9 Magny is A Other 2 are B."</p> <p>10 So Shelby is saying to someone --</p> <p>11 A. Uh-huh.</p> <p>12 Q. -- the rest of these fighters, meaning</p> <p>13 Prazeres and Moontasri and Magny, he's saying the</p> <p>14 rest are -- fall into Silva's weight class, or --</p> <p>15 that he's in charge of, but if you can't get hold of</p> <p>16 him, then Shelby is giving them ratings; is that</p> <p>17 right?</p> <p>18 A. Yes. I believe the other person is Melissa</p> <p>19 Hendrix.</p> <p>20 Q. Who's Melissa Hendrix?</p> <p>21 A. She used to work for us, but she -- what</p> <p>22 this is about is about tickets for guest fighters.</p> <p>23 Q. And what are the A -- what did the A, B --</p> <p>24 what do the A's and B designate?</p> <p>25 A. What she was asking is they have limited</p>	<p style="text-align: right;">156</p> <p>1 SILVA</p> <p>2 Q. Did you -- and -- and did those -- did you</p> <p>3 generally use A, B and C rankings to designate the</p> <p>4 relative quality and talent of fighters?</p> <p>5 A. No. This was a shorthand specifically for</p> <p>6 the people who are handling tickets, and it just made</p> <p>7 it easy -- easy shorthand for them to know. It's</p> <p>8 like, oh, I've got these good tickets, I have these</p> <p>9 better tickets, who should get what.</p> <p>10 Q. Did you have an internal shorthand system</p> <p>11 of, between you and Shelby or you and other</p> <p>12 executives at the UFC, that relatively ranked</p> <p>13 fighters?</p> <p>14 A. That we have rankings.</p> <p>15 Q. Other than the -- the ranking system that</p> <p>16 you referred to earlier.</p> <p>17 A. No.</p> <p>18 Q. Okay. All right. You can put that document</p> <p>19 aside.</p> <p>20 MR. CRAMER: All right. I would like to</p> <p>21 have marked as Silva Exhibit 12 the next</p> <p>22 document.</p> <p>23 (Silva Deposition Exhibit 12 marked for</p> <p>24 identification.)</p> <p>25 Q. So Silva Exhibit 12 is a February 2011</p>
<p style="text-align: right;">155</p> <p>1 SILVA</p> <p>2 amount of tickets for a guest and they can't all be</p> <p>3 in the same place. Some tickets are going to be</p> <p>4 better seating than others. Sort of like, out of</p> <p>5 this guest list, who are you ranking in terms of --</p> <p>6 you know, and it could be a day-to-day thing. You</p> <p>7 won your last fight and you look great, all right,</p> <p>8 that's going to move you up, temporarily give them</p> <p>9 the better seats, give the -- give them all tickets,</p> <p>10 but this is the priority, and this -- these are the</p> <p>11 descending priority.</p> <p>12 Q. So the A's and B's are the at-the-moment</p> <p>13 ranking of the fighter for purposes of certain</p> <p>14 privileges?</p> <p>15 A. Yeah. And it's also, though, within the</p> <p>16 context of who is an A out of this particular group.</p> <p>17 Somebody who would be an A out of this group of guys</p> <p>18 would not be an A if Jon Jones is there.</p> <p>19 Q. I see. So it's relative to the group that's</p> <p>20 being asked about?</p> <p>21 A. Correct.</p> <p>22 Q. And A is the top level, B is next, and C is</p> <p>23 under that?</p> <p>24 A. Right. Just as far as placement and seating</p> <p>25 for tickets.</p>	<p style="text-align: right;">157</p> <p>1 SILVA</p> <p>2 e-mail that you sent to Dana White, Lorenzo Fertitta</p> <p>3 and Sean Shelby, it bears the Bates range</p> <p>4 ZUF-00085896 through 901, and the subject of the</p> <p>5 e-mail is "We Own MMA." And as I said, it's dated</p> <p>6 February 12, 2011, at 9:39 a.m.</p> <p>7 It -- am I correct that you sent this e-mail</p> <p>8 to Mr. White, Mr. Fertitta and Mr. Shelby?</p> <p>9 A. Yes.</p> <p>10 Q. Do you recall this e-mail?</p> <p>11 A. Yes.</p> <p>12 Q. Did you send this in the regular course of</p> <p>13 business?</p> <p>14 A. As opposed to?</p> <p>15 Q. As opposed to anything other than the</p> <p>16 regular course of business.</p> <p>17 Did you send this while you were working as</p> <p>18 part of your job at the UFC?</p> <p>19 A. Yes, I sent this to -- as part of my work.</p> <p>20 Q. Okay. Look at the center of the page, you</p> <p>21 can see that what you were doing was e-mailing or</p> <p>22 forwarding a story from the USA -- USA</p> <p>23 Today/SB Nation Consensus MMA Rankings.</p> <p>24 A. Uh-huh.</p> <p>25 Q. Is that right?</p>

<p style="text-align: right;">158</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. And those were the consensus MMA rankings of</p> <p>4 fighters at the time; is that right?</p> <p>5 A. Correct.</p> <p>6 Q. And these were the rankings that you and</p> <p>7 other MMA organizations used in -- in ranking</p> <p>8 fighters; is that right?</p> <p>9 A. Well, it's an example of what I used for the</p> <p>10 purpose of this e-mail. What I think anybody would</p> <p>11 use -- this is -- not everybody is going to use the</p> <p>12 consensus if the consensus doesn't benefit them.</p> <p>13 Q. Okay.</p> <p>14 A. If you are Strikeforce and one of the</p> <p>15 web sites had your fighters ranked higher, I'm sure</p> <p>16 you go, that is most credible poll. This is one I</p> <p>17 just grabbed in general, and it supported -- this was</p> <p>18 an e-mail that I sent most likely because my bosses</p> <p>19 like to bust my chops and just say, like, are you</p> <p>20 doing your job, are you going out there, are you</p> <p>21 trying to get the best talent, are you working hard,</p> <p>22 are you doing this and that. So it's in response to</p> <p>23 something like that. It's like, look, look how many</p> <p>24 good guys that I have gone out and gotten.</p> <p>25 Q. So you're showing your boss how successful</p>	<p style="text-align: right;">160</p> <p>1 SILVA</p> <p>2 right?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And then this says -- now, did you</p> <p>5 write this compiling the rankings and --</p> <p>6 A. No.</p> <p>7 Q. No. Oh this was from --</p> <p>8 A. That's just -- that's copied off their web</p> <p>9 site. Just, I cut and pasted the whole thing, down</p> <p>10 the rankings.</p> <p>11 Q. Okay. And part of what you cut and pasted</p> <p>12 from the web site was language that said, "These</p> <p>13 world MMA rankings are the most accurate reflection</p> <p>14 of how the top fighters in MMA across all promotions</p> <p>15 like UFC, WEC, Affliction and Dream are viewed by the</p> <p>16 experts who cover the sport."</p> <p>17 Do you see that?</p> <p>18 A. Yeah.</p> <p>19 Q. Is -- do you have a basis to disagree with</p> <p>20 that?</p> <p>21 A. There are certainly people who did. There</p> <p>22 was a different ranking system called FightMetric who</p> <p>23 pointed out, saying that they found this system very</p> <p>24 flawed and that they went with a system that was</p> <p>25 statistical based rather than polling journalists.</p>
<p style="text-align: right;">159</p> <p>1 SILVA</p> <p>2 you and Shelby have been in getting the top fighters</p> <p>3 in the sport; is that right?</p> <p>4 A. Getting a lot of them, yes. As I put,</p> <p>5 detailed out, we certainly didn't have all of them,</p> <p>6 but in each weight class we had good representation</p> <p>7 in every weight class.</p> <p>8 Q. And the -- after the list of heavyweight,</p> <p>9 lightweight, et cetera, it says: "Compiling the</p> <p>10 rankings of twenty top mixed martial arts web sites,</p> <p>11 the USA Today/SB Nation Consensus MMA Rankings</p> <p>12 present the top 25 fighters in MMA for the seven</p> <p>13 major weight classes."</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. So this was the consensus rankings of the</p> <p>17 top 20 web sites; is that right?</p> <p>18 A. Does it say -- does it say top 20? I'm not</p> <p>19 sure how they're ranking that.</p> <p>20 Q. Says compiling the rankings of 20 top mixed</p> <p>21 martial arts web sites.</p> <p>22 A. Yeah, that's their claim.</p> <p>23 Q. That's their claim.</p> <p>24 And you were using this evidence, this</p> <p>25 information, to tout your success to your bosses;</p>	<p style="text-align: right;">161</p> <p>1 SILVA</p> <p>2 So you could subscribe to their model.</p> <p>3 I don't know scientifically which one is</p> <p>4 better. In the end, it's all opinion. If it wasn't,</p> <p>5 all the web sites would be unanimous, and they</p> <p>6 weren't. That's why they had to crunch them together</p> <p>7 and see what was the average. But you didn't have</p> <p>8 every web site in agreement, yes, this is the precise</p> <p>9 ranking. This is just an average.</p> <p>10 Q. It was an average of 20 of the top web</p> <p>11 sites?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And you also said that there's</p> <p>14 another ranking system out there called FightMetrics?</p> <p>15 A. Yes.</p> <p>16 Q. And they have a database of fighters?</p> <p>17 A. Yes.</p> <p>18 Q. And they do a statistical ranking?</p> <p>19 A. Correct. Yes. They didn't base theirs off</p> <p>20 of opinions of journalists. They based it on what</p> <p>21 they claim are just cold, hard statistics, and that</p> <p>22 they felt that was a better measure.</p> <p>23 There were some things that I liked better</p> <p>24 in theirs and there's some things that didn't make</p> <p>25 sense to me. But that was the same with this kind of</p>

<p style="text-align: right;">162</p> <p>1 SILVA</p> <p>2 poll too. There was ones like, hmm, that seems high</p> <p>3 or that seems low, so -- but it's two different ways.</p> <p>4 I think it's just an imperfect science, but it gives</p> <p>5 you a decent general view.</p> <p>6 Q. So this compilation gives one a decent</p> <p>7 general view of the relative ranking of the top</p> <p>8 fighters, and FightMetrics gives you a decent</p> <p>9 relative view of the relative rankings of the top</p> <p>10 fighters; is that fair?</p> <p>11 MR. ISAACSON: Objection to form.</p> <p>12 A. Yeah, it would just -- because their results</p> <p>13 differ, I -- I do -- it would be hard to say -- how</p> <p>14 can you say they're both accurate when they come with</p> <p>15 different results. But I understand what they're</p> <p>16 trying to do. And to shoot back at my bosses and</p> <p>17 thump my chest, this is the one that helped me do</p> <p>18 that.</p> <p>19 Q. But you wouldn't -- you wouldn't disagree if</p> <p>20 someone used FightMetrics as a -- as a basis for</p> <p>21 evaluating fighters, that that was one at least</p> <p>22 potentially reliable way to evaluate and rank</p> <p>23 fighters; correct?</p> <p>24 MR. ISAACSON: Objection to form.</p> <p>25 A. Yeah. And people have come to me, if there</p>	<p style="text-align: right;">164</p> <p>1 SILVA</p> <p>2 guessing that somewhere in between the two you could</p> <p>3 probably get something closer.</p> <p>4 But in the end, it doesn't mean much other</p> <p>5 than -- you certainly know the -- these guys have</p> <p>6 achieved certain things, but I've seen so many where</p> <p>7 this guy is consensus number one and then he gets</p> <p>8 crushed in his next fight. It's like what did</p> <p>9 that --</p> <p>10 Q. Right.</p> <p>11 A. -- mean that he was. And it doesn't even</p> <p>12 mean that they are wrong, he was at that moment, but</p> <p>13 maybe that was his peak moment and it changed. So</p> <p>14 it's useful for some things.</p> <p>15 It was useful for me when they're going, are</p> <p>16 you out there working your butt off trying to find us</p> <p>17 the best talent. It's like, yes, I am, this</p> <p>18 represented I'm trying to -- to do as well as I can.</p> <p>19 Q. Okay. And what this information showed, as</p> <p>20 is summarized at the top, was that the UFC had 15 out</p> <p>21 of the top 25 heavyweights?</p> <p>22 A. Yes.</p> <p>23 MR. ISAACSON: Objection. Time frame.</p> <p>24 Q. In February 2011?</p> <p>25 A. Yes, at the time.</p>
<p style="text-align: right;">163</p> <p>1 SILVA</p> <p>2 was a fighter who was on FightMetric that, say, was</p> <p>3 not recognized as high as the other, certainly their</p> <p>4 manager is going, no, this is very credible.</p> <p>5 Q. And you would -- you would think, well,</p> <p>6 that's some evidence that that fighter has some</p> <p>7 credible argument --</p> <p>8 A. But mostly I would default to my own. It's</p> <p>9 like, I've seen them fight and this is my opinion,</p> <p>10 which my opinion could be wrong, but it's my opinion.</p> <p>11 Q. Is it fair to say that FightMetrics was used</p> <p>12 by some people in the industry as a basis for</p> <p>13 evaluating fighters?</p> <p>14 A. Yes. It was used by -- if they didn't have</p> <p>15 visitors and users, I'm sure they would have gone</p> <p>16 away. They've been around for a long time.</p> <p>17 Q. And who were the types of entities or people</p> <p>18 in the industry that used FightMetrics to evaluate</p> <p>19 fighters?</p> <p>20 A. I think there are some people who, just fans</p> <p>21 of a statistical model, that idea appealed to them.</p> <p>22 There's other people who feel like no, there's a lot</p> <p>23 of gray areas and other factors that -- that you</p> <p>24 should take into account. But it's just -- it's a</p> <p>25 difference of philosophy on it. And I -- I'm</p>	<p style="text-align: right;">165</p> <p>1 SILVA</p> <p>2 Q. At the time.</p> <p>3 And in February 2011, it had six out of the</p> <p>4 top ten heavyweights; is that right?</p> <p>5 A. Yes.</p> <p>6 Q. And then for the light heavyweights, the UFC</p> <p>7 had 19 out of the top 25 lightweight -- light</p> <p>8 heavyweights; is that right?</p> <p>9 A. Yes.</p> <p>10 Q. And nine out of the top ten; is that right?</p> <p>11 A. Yes.</p> <p>12 Q. And in 2011, UFC had 18 out of 25 of the top</p> <p>13 middleweights; is that right?</p> <p>14 A. Yes.</p> <p>15 Q. And 8 out of the top 10 middleweights; is</p> <p>16 that right?</p> <p>17 A. Yep.</p> <p>18 Q. And it had 21 out of the 25 top</p> <p>19 welterweights; isn't that right?</p> <p>20 A. Yes.</p> <p>21 Q. And the UFC had 8 out of the top 10</p> <p>22 welterweights; isn't that right?</p> <p>23 A. Yes.</p> <p>24 Q. And UFC had 17 out of the top 25</p> <p>25 lightweights; isn't that right?</p>

<p>166</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. And 6 out of the top 10 lightweights;</p> <p>4 correct?</p> <p>5 A. Yes.</p> <p>6 Q. And it had 14 out of the top 25</p> <p>7 featherweights; correct?</p> <p>8 A. Yes.</p> <p>9 Q. And 6 out of the top 10 featherweights;</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. And bantamweights, it had 17 out of the top</p> <p>13 25; correct?</p> <p>14 A. Yes.</p> <p>15 Q. And 9 out of the top 10; correct?</p> <p>16 A. Yes.</p> <p>17 Q. All right. Now, it's fair to say if you</p> <p>18 look at the list below, that this list was only</p> <p>19 counting as part of the UFC, fighters who were --</p> <p>20 that -- at that time fighting with the UFC; correct?</p> <p>21 In other words, it didn't count Strikeforce</p> <p>22 fighters as part of the UFC for the purposes of these</p> <p>23 numbers that I just read to you?</p> <p>24 So for example, look at heavyweight MMA,</p> <p>25 you'll see, at the bottom of the page, number one is</p>	<p>168</p> <p>1 SILVA</p> <p>2 would change the rankings.</p> <p>3 Q. It would change the rankings.</p> <p>4 But you would agree that if you take the UFC</p> <p>5 and you add Strikeforce, that would mean that the UFC</p> <p>6 and Strikeforce together, in January 27, 2011, had 21</p> <p>7 of the top 25 heavyweights; correct?</p> <p>8 A. No.</p> <p>9 Q. Yes?</p> <p>10 A. If we would have acquired them at the date</p> <p>11 that this came out, then yes, we would have that</p> <p>12 many.</p> <p>13 Q. So if you -- let me just ask it this way.</p> <p>14 If you add the UFC to the Strikeforce fighters for</p> <p>15 heavyweights, UFC plus Strikeforce gives you 21 out</p> <p>16 of the top 25 heavyweights; correct?</p> <p>17 A. You would have to count them up. I'm not</p> <p>18 doing that.</p> <p>19 Q. Well, UFC world heavyweight, 15 out of 25,</p> <p>20 right, at the top?</p> <p>21 A. Uh-huh.</p> <p>22 Q. And if you look at the bottom of the page,</p> <p>23 there's six Strikeforce fighters; right?</p> <p>24 A. Okay.</p> <p>25 Q. So you add 15 plus 6, equals 21; right?</p>
<p>167</p> <p>1 SILVA</p> <p>2 Cain Velasquez, but if you look at 7, it says</p> <p>3 Alistair Overeem, Strikeforce.</p> <p>4 A. Uh-huh. I don't -- I'm not clear on time</p> <p>5 frame. Like, so, did we have Strikeforce, had we</p> <p>6 acquired them at that -- that time.</p> <p>7 Q. Whether or not you did, as of --</p> <p>8 A. No, it does matter. If we had acquired them</p> <p>9 when I said that we have, then that would included.</p> <p>10 Q. Okay.</p> <p>11 A. If we had not acquired them, then it would</p> <p>12 not include that.</p> <p>13 Q. Okay. Fair -- fair enough. I understand.</p> <p>14 So in order -- at -- if at this time, in</p> <p>15 January 27, 2011, or shortly thereafter, the UFC had</p> <p>16 or was about to acquire Strikeforce, then the correct</p> <p>17 number that the UFC had of the top 25 heavyweights</p> <p>18 would be 21 out of the top 25; correct?</p> <p>19 You add the 15 out of the top 25 that --</p> <p>20 that's UFC, and then you add 6 Strikeforce, Werdum,</p> <p>21 Overeem, Silva, Barnett, Rogers; correct?</p> <p>22 A. But we had not acquired it yet.</p> <p>23 Q. Right. But I'm just saying if -- if you</p> <p>24 had --</p> <p>25 A. Well, also that would be a later date, which</p>	<p>169</p> <p>1 SILVA</p> <p>2 A. Yeah.</p> <p>3 Q. So UFC plus Strikeforce, in January of 2011,</p> <p>4 would give you 21 of the top 25 heavyweights;</p> <p>5 correct? Would give UFC plus Strikeforce 21 of the</p> <p>6 top 25 heavyweights?</p> <p>7 A. Yes, except that that's still theoretical.</p> <p>8 Mike Russow, who's ranked number 23 here, could have</p> <p>9 dropped off of that. He's low on it. Within a month</p> <p>10 he could lose a fight and not be on there, so that</p> <p>11 would alter your number.</p> <p>12 Q. Yeah. I understand that.</p> <p>13 A. Same with Stefan Struve. Same with John</p> <p>14 Madsen.</p> <p>15 We also have -- of those top 25, we have the</p> <p>16 lowest ranked guys on there. And with one loss or</p> <p>17 one win from somebody in another organization, they'd</p> <p>18 get pushed out of that.</p> <p>19 So that's not necessarily -- even then after</p> <p>20 that we acquire Strikeforce doesn't mean that we have</p> <p>21 that many of the top.</p> <p>22 Q. I -- I understand.</p> <p>23 I'm just talking about as of January 2011,</p> <p>24 if you add Strikeforce and UFC fighters, Strikeforce</p> <p>25 plus UFC in January of 2011, gives the Strikeforce</p>

<p style="text-align: right;">170</p> <p>1 SILVA</p> <p>2 plus UFC 21 of the top 25 heavyweights; right?</p> <p>3 A. Yes, if you add that too.</p> <p>4 Q. And it's possible that if the UFC loses --</p> <p>5 if -- if, for example, Struve or Madsen or Russow,</p> <p>6 the bottom three of the top 25, fall out, it's</p> <p>7 possible that other UFC fighters fall in; correct?</p> <p>8 A. It's possible.</p> <p>9 Q. Okay. Now, for the next grouping, light</p> <p>10 heavyweight, UFC has 19 out of the top 25, and 9 out</p> <p>11 of the top 10. If we add UFC plus Strikeforce for</p> <p>12 light heavyweight, you'd get 24 out of the top 25;</p> <p>13 correct?</p> <p>14 A. Yeah, with the same reservations as before.</p> <p>15 Q. Right.</p> <p>16 A. Just, it does alter with time. But, yes, at</p> <p>17 that moment, if you add Strikeforce plus UFC, that's</p> <p>18 the number you get.</p> <p>19 Q. And for middleweight at that moment, UFC had</p> <p>20 18 out of the top 25, and Strikeforce had 4, you add</p> <p>21 them together, that's 22 of the top 25 were UFC and</p> <p>22 Strikeforce fighters; correct?</p> <p>23 A. Yes.</p> <p>24 Q. In welterweight, UFC had 21 out of the top</p> <p>25 25, and Strikeforce had 2. So UFC plus Strikeforce,</p>	<p style="text-align: right;">172</p> <p>1 SILVA</p> <p>2 Own MMA," what did you mean?</p> <p>3 A. I meant it to Dana and Lorenzo as like look</p> <p>4 how many -- if you're asking are we doing our job in</p> <p>5 trying to find top talent, look how many people these</p> <p>6 reporters say are the top talent that we have.</p> <p>7 Q. And you would agree that 21 out of the top</p> <p>8 25 heavyweights is the vast majority of top</p> <p>9 heavyweights?</p> <p>10 A. Yes.</p> <p>11 Q. Would you also agree that in or about this</p> <p>12 time in January of 2011, if you just look at this</p> <p>13 list, Bellator had very few of the top fighters in</p> <p>14 any of these divisions?</p> <p>15 A. At that time. But they grew.</p> <p>16 Q. They grew later?</p> <p>17 A. Yes.</p> <p>18 Q. But at this time, it's really Strikeforce</p> <p>19 that has the -- the most -- sort of the second after</p> <p>20 UFC in terms of the number of fighters in the -- in</p> <p>21 the top of these divisions; is that right?</p> <p>22 A. Yes. It shifted over. Scott Coker worked</p> <p>23 for Strikeforce and would then go on to work for</p> <p>24 Bellator.</p> <p>25 Q. At this time, though, he was working for</p>
<p style="text-align: right;">171</p> <p>1 SILVA</p> <p>2 in January of 2011, those two combined had 23 of the</p> <p>3 top 25 fighters in welterweight; correct?</p> <p>4 A. Yes.</p> <p>5 Q. And lightweight, UFC had 17 out of the top</p> <p>6 25, and Strikeforce had 3. You add those together,</p> <p>7 Strikeforce and UFC in January of 2011 had 20 of the</p> <p>8 top 25 lightweights; correct?</p> <p>9 A. Yes.</p> <p>10 Q. And featherweights, UFC had 14 out of the</p> <p>11 top 25, I think Strikeforce had none. In</p> <p>12 bantamweight, UFC had 17 out of the top 25, and</p> <p>13 Strikeforce had none.</p> <p>14 Am I right?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. When you wrote "We Own MMA" to your</p> <p>17 bosses, the "we" was the UFC; correct?</p> <p>18 A. It was Zuffa.</p> <p>19 Q. Zuffa. And any entity that was fighting</p> <p>20 under the -- the promotional banner of Zuffa. And</p> <p>21 that might be UFC, it might have been Strikeforce at</p> <p>22 the time, depending upon the -- the date of</p> <p>23 acquisition?</p> <p>24 A. Right, or WEC.</p> <p>25 Q. Or WEC. And when you -- when you said, "We</p>	<p style="text-align: right;">173</p> <p>1 SILVA</p> <p>2 Strikeforce?</p> <p>3 A. Yes.</p> <p>4 Q. And Strikeforce was the second largest</p> <p>5 U.S. -- MMA promoter in the United States?</p> <p>6 A. Yes.</p> <p>7 Q. And so when Zuffa purchased Strikeforce,</p> <p>8 it -- it took out its largest competitor at the time;</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. All right. Now, Zuffa purchased Strikeforce</p> <p>12 I believe in March of 2011. Does that ring a bell?</p> <p>13 A. No.</p> <p>14 Q. No. Okay. I'll represent to you that I</p> <p>15 think that's the date.</p> <p>16 A. Okay.</p> <p>17 Q. Would you agree with me that after the</p> <p>18 Strikeforce acquisition, the share of the top 25</p> <p>19 fighters in several weight classes with contracts</p> <p>20 owned by Zuffa went up?</p> <p>21 A. Yes.</p> <p>22 Q. So the purchase of Strikeforce increased the</p> <p>23 UFC's position in the sport of MMA, that's one of the</p> <p>24 reasons for the purchase; right?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">174</p> <p>1 SILVA</p> <p>2 Q. In -- in your words to -- to Dana and</p> <p>3 Lorenzo, the purchase of Strikeforce increased the</p> <p>4 UFC's ownership of the sport; correct?</p> <p>5 A. That was not the statement of that, for</p> <p>6 them -- buying Strikeforce was not my idea, so I</p> <p>7 could not lay claim to that with this e-mail where</p> <p>8 I'm chest-thumping and trying to make myself look</p> <p>9 good. You -- you can't really count that. So that's</p> <p>10 why I -- one, I don't think that I was -- this e-mail</p> <p>11 was about acquiring Strikeforce. I don't think that</p> <p>12 we had acquired it then.</p> <p>13 Q. Okay.</p> <p>14 A. So I'm not bragging about anybody from</p> <p>15 Strikeforce, I didn't get those people. So I'm</p> <p>16 bragging about the people that I actually -- me and</p> <p>17 Sean got -- acquired ourselves.</p> <p>18 Q. So one way -- one thing you're bragging</p> <p>19 about was your ability to bring in top talent and the</p> <p>20 majority of the top fighters in all of these</p> <p>21 divisions, and another way that Zuffa brought in top</p> <p>22 talent was purchasing Strikeforce?</p> <p>23 A. Yes.</p> <p>24 Q. World Series of Fighting is an MMA</p> <p>25 promotion?</p>	<p style="text-align: right;">176</p> <p>1 SILVA</p> <p>2 Q. Silva 13. So Silva 13 is a compilation of</p> <p>3 texts that were produced to us by Zuffa under the</p> <p>4 Bates range ZFL-2699683. And I believe they're from</p> <p>5 Sean Shelby. So it's a compilation of text messages</p> <p>6 produced by Zuffa on behalf of Sean Shelby.</p> <p>7 MR. CRAMER: And what page?</p> <p>8 (Discussion off the record.)</p> <p>9 MR. CRAMER: Okay. All right. Let's do</p> <p>10 72. We can put that aside for a moment.</p> <p>11 All right. Let's mark as the next</p> <p>12 document Silva Exhibit 14.</p> <p>13 (Silva Deposition Exhibit 14 marked for</p> <p>14 identification.)</p> <p>15 Q. All right. Silva 14 is one page, including</p> <p>16 a series of e-mails that bears the Bates range</p> <p>17 ZFL-0826818. At the bottom of the page is an</p> <p>18 October 2014 e-mail from Andrea Fabrizio to you and</p> <p>19 Sean Shelby.</p> <p>20 Fabrizio at that time was Dana White's</p> <p>21 assistant?</p> <p>22 A. Yes.</p> <p>23 Q. And she writes: "Please see attached WSOF</p> <p>24 Fighter Roster."</p> <p>25 Do you see that?</p>
<p style="text-align: right;">175</p> <p>1 SILVA</p> <p>2 A. Yes. They've -- they've now changed their</p> <p>3 name to something else.</p> <p>4 Q. What is their name now?</p> <p>5 A. I don't recall.</p> <p>6 Q. Okay. Do you recall when they changed their</p> <p>7 name?</p> <p>8 A. I think within the last month or so.</p> <p>9 Q. Okay. And do you recall that in or about</p> <p>10 the fall of 2014 Zuffa got its hands on a list of</p> <p>11 World Series of Fighting's roster and fighter</p> <p>12 compensation?</p> <p>13 A. I do.</p> <p>14 Q. You did -- you do recall?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Do you recall how that came into your</p> <p>17 or someone at Zuffa's possession?</p> <p>18 A. I don't recall exactly. I know I was simply</p> <p>19 shown that this is their roster. I think I was asked</p> <p>20 my opinion on their roster.</p> <p>21 Q. Okay.</p> <p>22 MR. CRAMER: All right. I'd like to mark</p> <p>23 as the next exhibit Silva 13.</p> <p>24 (Silva Deposition Exhibit 13 marked for</p> <p>25 identification.)</p>	<p style="text-align: right;">177</p> <p>1 SILVA</p> <p>2 A. Uh-huh. Yes.</p> <p>3 Q. So this is the incident where somehow people</p> <p>4 at Zuffa got ahold of World Series of Fighting's</p> <p>5 roster; is that right?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And in the middle of the page you</p> <p>8 write to Shelby and Dana White and Lorenzo Fertitta</p> <p>9 saying, on October 8, 2014, at the end of the first</p> <p>10 sentence there you say, "WSOF is where all the</p> <p>11 fighters that we didn't want or got rid of went."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. What do you mean by that?</p> <p>15 A. They certainly -- there's a lot of people</p> <p>16 who had been in the UFC who were released from the</p> <p>17 UFC who were then picked up by World Series of</p> <p>18 Fighting.</p> <p>19 Q. So the World Series of Fighting at that time</p> <p>20 included a collection of fighters that either you</p> <p>21 didn't want at the UFC or that you had released; is</p> <p>22 that fair?</p> <p>23 A. They also had other fighters too, but they</p> <p>24 had taken a lot of fighters that I had released. So</p> <p>25 to reacquire them quickly -- and there's fighters</p>

<p style="text-align: right;">178</p> <p>1 SILVA</p> <p>2 that have been released from the UFC all throughout</p> <p>3 the history, hundreds of them, who were released from</p> <p>4 the UFC, fought outside the UFC, and made their way</p> <p>5 back to the UFC.</p> <p>6 But my main concern here, number one thing I</p> <p>7 said was, definitely don't have room on the roster</p> <p>8 for an influx of new fighters. And that -- that's</p> <p>9 the overriding concern for me, is trying to manage</p> <p>10 that number. So, yeah, for fighters, like, if I cut</p> <p>11 him recently, how are we going to bring him right</p> <p>12 back in when we --</p> <p>13 Q. Right.</p> <p>14 A. -- deal with that.</p> <p>15 Q. So it's fair to say that -- that at least</p> <p>16 with respect to these fighters that you were</p> <p>17 referring to at the World Series of Fighting, it</p> <p>18 included a collection of people that -- that had left</p> <p>19 the UFC because you had released them; is that right?</p> <p>20 A. There was a number of their fighters that</p> <p>21 had been released from the UFC.</p> <p>22 Q. Right. And you said you didn't have room on</p> <p>23 your roster to take them back; is that right?</p> <p>24 A. Yes.</p> <p>25 Q. You also said: "Tons of boring guys."</p>	<p style="text-align: right;">180</p> <p>1 SILVA</p> <p>2 judges' eyes who the winner was, so that's kind of on</p> <p>3 you.</p> <p>4 Q. All right. Below that you say: "The only</p> <p>5 guy they have in my weight classes that I'm</p> <p>6 interested in is Justin Gaethje" --</p> <p>7 A. Yes.</p> <p>8 Q. -- "undefeated lightweight. He has his</p> <p>9 first real test coming up next week when he fights</p> <p>10 Melvin Gaillard."</p> <p>11 Melvin Gaillard was a former UFC fighter?</p> <p>12 A. Yes.</p> <p>13 Q. And when you said that Gaillard would be</p> <p>14 Gaethje's first real test, you meant that Gaethje was</p> <p>15 going to fight someone who at least at some point was</p> <p>16 close to being a UFC caliber fighter?</p> <p>17 A. Well, he was a UFC caliber fighter at one</p> <p>18 time. He's fought many times in the UFC. So it --</p> <p>19 it's a measuring stick because this is a person</p> <p>20 you're very familiar with.</p> <p>21 And there's different levels of it. If he</p> <p>22 just -- if Melvin was cut from the UFC because he</p> <p>23 wasn't doing it to just squeak out a victory over</p> <p>24 him, still might not be that impressive. It's like,</p> <p>25 but Melvin's not competing at UFC level right now,</p>
<p style="text-align: right;">179</p> <p>1 SILVA</p> <p>2 What does that mean?</p> <p>3 A. I think that Ali -- we would joke, Ali is a</p> <p>4 good guy, but he seemed to want to manage the -- a</p> <p>5 majority of the safety-first type of -- of fighters,</p> <p>6 not the kind of fighters that the fans were generally</p> <p>7 clamoring to see, people who just did just enough to</p> <p>8 try and squeak out a decision. Not that they were</p> <p>9 untalented guys, especially they were talking about</p> <p>10 how many were in the UFC. I thought they were</p> <p>11 talented enough to give them a shot. But they did</p> <p>12 not perform and they were not exciting in their</p> <p>13 failure to perform.</p> <p>14 Q. And so you cut them and they ended up at</p> <p>15 World Series of Fighting?</p> <p>16 A. Yes, a number of them.</p> <p>17 Q. And what is a safety-first fighter?</p> <p>18 A. That -- somebody who is trying to do as</p> <p>19 little as possible to squeak out a win, which I</p> <p>20 understand the -- the want to take as little risk as</p> <p>21 possible, but the danger is it's a very subjective</p> <p>22 sport. These are also then the type that if a</p> <p>23 decision doesn't go their way, will complain about</p> <p>24 it, but it's like but you made it so close. You did</p> <p>25 not put forth an extra effort to make it clear in the</p>	<p style="text-align: right;">181</p> <p>1 SILVA</p> <p>2 but if -- he's a still a very tough guy, and if he</p> <p>3 was to look impressive against him, then you go, oh,</p> <p>4 he is -- yeah, he's definitely somebody interesting.</p> <p>5 Q. Right. So if Gaethje were to be impressive</p> <p>6 against someone who at least at one point was a</p> <p>7 UFC-level talent, that would potentially impress you?</p> <p>8 A. Yes.</p> <p>9 Q. And you might potentially then seek to sign</p> <p>10 him at the UFC?</p> <p>11 A. Yes. Well, I was saying of the people who</p> <p>12 they had on their roster, he was the one that I was</p> <p>13 most interested in.</p> <p>14 Q. Right. So the U -- the World Series of</p> <p>15 Fighting had a bunch of people you didn't want or got</p> <p>16 rid of, and the one exception was Gaethje?</p> <p>17 A. And that's of my weight classes. Don't</p> <p>18 forget, I'm not passing up Marlon Morias, but he was</p> <p>19 not in my weight class, so I would not comment on</p> <p>20 him. That would be like left to Sean to go, well,</p> <p>21 these are the guys that I like.</p> <p>22 Q. I see.</p> <p>23 A. So it's not that that was the only fighter</p> <p>24 on the whole roster, that was the fighter of the</p> <p>25 weight classes that I do that I was interested in.</p>

<p style="text-align: right;">182</p> <p>1 SILVA</p> <p>2 Q. And so one of the things you do as a -- as</p> <p>3 the senior VP of talent is you look out at other MMA</p> <p>4 promotions and you look for people who you think</p> <p>5 might be ready for the UFC; right?</p> <p>6 A. Yes.</p> <p>7 Q. And then you seek to recruit those people to</p> <p>8 the UFC, is that right, if -- if they're ready?</p> <p>9 A. Well, I don't -- I'm always very cautious</p> <p>10 not to interfere with somebody's contract.</p> <p>11 Generally, if -- if somebody becomes available,</p> <p>12 they'll reach out to me.</p> <p>13 Q. I see. Okay. So if someone at another</p> <p>14 promotion becomes available because their end of</p> <p>15 their -- their contract has ended, then they'll</p> <p>16 contact you; and if they're someone that is, you</p> <p>17 believe, of UFC caliber, you might engage in</p> <p>18 negotiations?</p> <p>19 A. Yes. I think the -- fighters will want to</p> <p>20 test free agency, so they may contact Bellator, they</p> <p>21 may contact me, but they're not going to do it until</p> <p>22 they're able to; or every now and then they wouldn't,</p> <p>23 and I would remind them, get back to me when you</p> <p>24 legally can.</p> <p>25 Q. Right.</p>	<p style="text-align: right;">184</p> <p>1 SILVA</p> <p>2 Q. It's in the -- would you agree that it would</p> <p>3 be in the interest of fighters to be able to test</p> <p>4 free agency just to see if they could get a -- a</p> <p>5 counteroffer?</p> <p>6 MR. ISAACSON: Objection. Calls for</p> <p>7 opinion. Form.</p> <p>8 A. Yeah, I think our contracts have provisions</p> <p>9 for that at the end of the contract.</p> <p>10 Q. You're referring to the right to match</p> <p>11 provision?</p> <p>12 A. That's just -- the contracts don't last</p> <p>13 forever, so you will eventually -- if that's your</p> <p>14 choice, you will, and fighters have, gone to free</p> <p>15 agency.</p> <p>16 Q. So the contracts don't last forever. It's</p> <p>17 fair to say that at the end of the term of a contract</p> <p>18 that it's your understanding that Zuffa has a 90-day</p> <p>19 exclusive negotiation period?</p> <p>20 A. Yes.</p> <p>21 Q. All right. And during that period, Zuffa is</p> <p>22 the only one who can bid on the services of that</p> <p>23 fighter; is that correct?</p> <p>24 A. That is my understanding.</p> <p>25 Q. And then there is a year period called the</p>
<p style="text-align: right;">183</p> <p>1 SILVA</p> <p>2 A. I don't want to talk to you till you're free</p> <p>3 to talk to me.</p> <p>4 Q. Right. When you use the term "free agency,"</p> <p>5 what did you mean?</p> <p>6 A. Just that they want to see the other offers</p> <p>7 that are out there. They might choose to stay with</p> <p>8 the World Series, or if they find a better offer from</p> <p>9 the UFC or from Bellator or from whoever else.</p> <p>10 And every now and then you'll get one from</p> <p>11 1FC or from KSW that is not of the norm, but they</p> <p>12 just decide I like that guy and we're going to bid on</p> <p>13 him. But you won't know until you put feelers out</p> <p>14 there.</p> <p>15 Q. And from the fighter's perspective, some of</p> <p>16 them want to test free agency so that they can have a</p> <p>17 number of different promotions bidding for their</p> <p>18 services; is that right?</p> <p>19 MR. ISAACSON: Objection. Calls for</p> <p>20 speculation.</p> <p>21 A. Yeah, I would say that some do. Some --</p> <p>22 some feel reassured just to -- you know, just sign me</p> <p>23 up where I'm now, this is where I'm happy. And some</p> <p>24 go, no, I'm interested in seeing what other people</p> <p>25 have to say.</p>	<p style="text-align: right;">185</p> <p>1 SILVA</p> <p>2 right-to-match period; is that your understanding?</p> <p>3 A. Yes.</p> <p>4 Q. And during that period, the fighter is able</p> <p>5 to field offers from other promotions, but Zuffa has</p> <p>6 the right to match that offer; is that right?</p> <p>7 A. That is correct.</p> <p>8 Q. And if Zuffa matches that offer, then that</p> <p>9 fighter is obliged to then re-sign with Zuffa; is</p> <p>10 that right?</p> <p>11 A. I believe so.</p> <p>12 Q. So during that 15-month period, if there's a</p> <p>13 fighter that Zuffa wants to keep, it has the option</p> <p>14 of keeping him as long as Zuffa matches any offer</p> <p>15 during that right-to-match period; correct?</p> <p>16 A. Yes.</p> <p>17 Q. Would you agree with me that 15 months is a</p> <p>18 long time in an MMA fighter's career, especially</p> <p>19 during the peak of a MMA fighter's career?</p> <p>20 MR. ISAACSON: Objection to form.</p> <p>21 A. No, in that if you -- if the idea is that</p> <p>22 you want to see how you can get the best deal, you</p> <p>23 are getting that best deal within that, if we have</p> <p>24 the right to match. If it's after the 90-day</p> <p>25 exclusive period, and another promotion says, we can</p>

<p style="text-align: right;">186</p> <p>1 SILVA</p> <p>2 give you this much money, we either have to give them</p> <p>3 as much money or we have to let them go.</p> <p>4 Q. Let me ask it this way. Would you agree</p> <p>5 with me that if there was a UFC fighter who no longer</p> <p>6 wanted to fight with the UFC for some reason and the</p> <p>7 UFC was determined to match any offer, that that</p> <p>8 fighter, in order to get out from under the contract,</p> <p>9 would need to wait the 90 days of the exclusive</p> <p>10 negotiation period and then the 12 months of the</p> <p>11 right to match; correct?</p> <p>12 A. That's my understanding.</p> <p>13 Q. All right. And -- and waiting 15 months</p> <p>14 without fighting is a long time in a fighter's</p> <p>15 career; correct?</p> <p>16 MR. ISAACSON: Objection to form.</p> <p>17 A. Depends on the fighter.</p> <p>18 Q. Well, fighters are independent contractors;</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. And they -- they pay -- in general, they pay</p> <p>22 for their own health insurance; correct?</p> <p>23 A. We have a form of health insurance, yeah.</p> <p>24 Q. But that health insurance doesn't cover</p> <p>25 their families, for example; right?</p>	<p style="text-align: right;">188</p> <p>1 SILVA</p> <p>2 fighters in the lightweight class that would be able</p> <p>3 to give Gaethje an appropriate test?</p> <p>4 A. No. I think -- as I stated earlier, I</p> <p>5 think -- he was in the lightweight division, which I</p> <p>6 think is the deepest division in the world.</p> <p>7 Q. Uh-huh.</p> <p>8 A. I think that pretty much everybody has a</p> <p>9 decent one, but then to truly stand out -- it's not</p> <p>10 that you're not good, but you're just amongst the</p> <p>11 best.</p> <p>12 The worst lightweight that I have is pretty</p> <p>13 darn good. They're not getting by just on their</p> <p>14 size. There's so many, just to be in at all you --</p> <p>15 you must be at -- at a high level of talent.</p> <p>16 So it -- it's not that they didn't have good</p> <p>17 ones, but they did not generally have as many</p> <p>18 recognized people. With them competing amongst</p> <p>19 themselves, not as many had yet stood out, where</p> <p>20 Melvin Guillard was simply a known quantity.</p> <p>21 Q. Because he had been at the UFC?</p> <p>22 A. He'd been at the UFC, but he'd also fought</p> <p>23 in other shows around the world too.</p> <p>24 Q. Right.</p> <p>25 A. He's -- he's a veteran and he'd been around</p>
<p style="text-align: right;">187</p> <p>1 SILVA</p> <p>2 A. No.</p> <p>3 Q. And that they have to pay for their trainer;</p> <p>4 right?</p> <p>5 A. Generally the trainers will take a</p> <p>6 percentage from their purse. So if they're not</p> <p>7 getting a purse, then no.</p> <p>8 Q. The trainers aren't paid by the UFC;</p> <p>9 correct?</p> <p>10 A. No.</p> <p>11 Q. Correct, they're not paid by the UFC?</p> <p>12 A. Correct.</p> <p>13 Q. UFC doesn't pay fighters' trainers directly;</p> <p>14 correct?</p> <p>15 A. Correct.</p> <p>16 Q. And the fighters, in general, pay for their</p> <p>17 own meals while they're training; correct?</p> <p>18 A. Correct.</p> <p>19 Q. And their own travel while they're training;</p> <p>20 correct?</p> <p>21 A. Correct.</p> <p>22 Q. When you said that the world's -- when you</p> <p>23 said that Gaethje's first real test coming up was</p> <p>24 Melvin Guillard, is it fair to say that the World</p> <p>25 Series of Fighting didn't have a lot of other</p>	<p style="text-align: right;">189</p> <p>1 SILVA</p> <p>2 and you knew of him, so he -- he made for a good</p> <p>3 measuring stick.</p> <p>4 Q. And the World Series of Fighting at that</p> <p>5 time, in the lightweight division, may have had a lot</p> <p>6 of other talented fighters, but it didn't have a lot</p> <p>7 of other known quantities like Melvin Guillard;</p> <p>8 correct?</p> <p>9 A. Correct.</p> <p>10 Q. All right. Back to Exhibit 4, which is one</p> <p>11 of these -- here -- one of these text message</p> <p>12 compilations.</p> <p>13 Turn to page 39 of Exhibit 4. All right.</p> <p>14 I'd like -- this is from -- this is the compilation</p> <p>15 of text messages that was produced to us by Zuffa</p> <p>16 that I think came from Dana White's phones, and I'm</p> <p>17 referring to a series of texts from November 11th,</p> <p>18 2014. And there is a text at 2:30:24 that I'd like</p> <p>19 to refer to, from you to [REDACTED]</p> <p>20 A. Uh-huh.</p> <p>21 Q. Is that Dana White?</p> <p>22 A. I believe so.</p> <p>23 Q. Okay. So you say to Dana White on</p> <p>24 November 14, 2014, at 2:30 in the afternoon: "Melvin</p> <p>25 Guillard missed weight for his WSOF title fight. Now</p>

<p style="text-align: right;">190</p> <p>1 SILVA</p> <p>2 non title and supposedly Gaethje demanded 50 percent</p> <p>3 of his purse and got it."</p> <p>4 And then White says, "Where is the fight" --</p> <p>5 A. Tampa, Florida.</p> <p>6 Q. And Tampa, Florida.</p> <p>7 And then there's an e-mail [sic] that --</p> <p>8 that you send to White that says: "In the press</p> <p>9 conference the day before he said he is an A level</p> <p>10 fighter fighting in a B level show. Never was the</p> <p>11 smartest guy."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. What did you mean when you said that Gaethje</p> <p>15 said he was an A-level fighter fighting in a B-level</p> <p>16 show?</p> <p>17 A. I don't think I was talking about Gaethje, I</p> <p>18 think I was talking about Melvin Guillard.</p> <p>19 Q. Okay. Guillard. So what did you mean when</p> <p>20 you said --</p> <p>21 A. I thought he was being disrespectful to the</p> <p>22 promotion that he's fighting in.</p> <p>23 Q. I see. So he was disrespecting World</p> <p>24 Series.</p> <p>25 A. Right. It's like they're giving you a shot</p>	<p style="text-align: right;">192</p> <p>1 SILVA</p> <p>2 Bellator so he wouldn't have to fight wrestlers like</p> <p>3 in the UFC."</p> <p>4 A. Uh-huh.</p> <p>5 Q. And then Silva -- and then you say -- Shelby</p> <p>6 says: "LOL. I just love how Bellator is a</p> <p>7 tournament based organi... Wait. What's going on?"</p> <p>8 And then you say: "2 guys who both lost</p> <p>9 their last 3 UFC fights."</p> <p>10 And then Shelby says: "Headlining a</p> <p>11 pay-per-view with two guys combined losing 9 of their</p> <p>12 last 10 fights."</p> <p>13 And then Shelby says: "Sorry last three a</p> <p>14 piece they total zero and six, 0 and 6."</p> <p>15 And then Shelby says: "They tried to throw</p> <p>16 a curve ball but it went into the stands."</p> <p>17 And you say to Shelby: "Dana is going to</p> <p>18 have fun smashing that matchup publicly."</p> <p>19 Do you see that?</p> <p>20 A. Yeah.</p> <p>21 Q. And then -- and then Shelby says to you:</p> <p>22 "Bellator throws a curve ball... Into the stands. In</p> <p>23 Bellator there is no matchmaking, except in their</p> <p>24 'was relevant 5 years ago' division."</p> <p>25 And Shelby then says to you: "It's almost</p>
<p style="text-align: right;">191</p> <p>1 SILVA</p> <p>2 and paying you good money, and you're publicly saying</p> <p>3 they're a B-level show, that doesn't seem very smart.</p> <p>4 Q. I see. So he was publicly dissing the World</p> <p>5 Series of Fighters --</p> <p>6 A. Yeah, who was giving them -- him a world</p> <p>7 title shot and -- and promoting him. I -- it was</p> <p>8 boggling to me. But Melvin -- he would be a nice</p> <p>9 guy, but he was a troubled guy. And that's just what</p> <p>10 I was saying. It's like a -- what's this kid doing.</p> <p>11 Q. Thank you. You can put that aside.</p> <p>12 All right. Let's turn back to Exhibit 13,</p> <p>13 page 275. And 13 is the compilation of text messages</p> <p>14 from Sean Shelby, and these are texts that were sent</p> <p>15 7/31/13. 275.</p> <p>16 All right. So the first message that I want</p> <p>17 to ask -- to show you is July 31st, 2013, at 1650, or</p> <p>18 4:50. Yeah, so 4:50. Tito versus Rampage. So it's</p> <p>19 the one that says, "Tito versus Rampage."</p> <p>20 A. Uh-huh.</p> <p>21 Q. And this is you saying to Shelby: "Tito</p> <p>22 versus Rampage. We might as well just close up shop</p> <p>23 now."</p> <p>24 And then -- and then you -- and then</p> <p>25 somebody else says: "Good thing Rampage went to</p>	<p style="text-align: right;">193</p> <p>1 SILVA</p> <p>2 too easy."</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. All right. So both of you are communicating</p> <p>6 about a Bellator show that had just -- that was about</p> <p>7 to occur; is that right?</p> <p>8 A. Yes.</p> <p>9 Q. And that show was going to be headlined by</p> <p>10 Tito and Rampage?</p> <p>11 A. Yes.</p> <p>12 Q. Tito who?</p> <p>13 A. Ortiz.</p> <p>14 Q. Tito Ortiz. And Rampage Jackson?</p> <p>15 A. Correct.</p> <p>16 Q. Were both of those fighters who used to be</p> <p>17 in the UFC?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And Rampage went from the UFC to --</p> <p>20 oh, sorry.</p> <p>21 Rampage went from the UFC to Bellator; is</p> <p>22 that right?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And you were saying it's a good thing</p> <p>25 Rampage went to Bellator so he wouldn't have to fight</p>

<p style="text-align: right;">194</p> <p>1 SILVA</p> <p>2 wrestlers like in the UFC.</p> <p>3 What does that mean?</p> <p>4 A. That means that Rampage Jackson publicly</p> <p>5 criticized me for putting him against nothing but</p> <p>6 wrestlers, which I thought was bizarre because he</p> <p>7 fought many nonwrestlers, and he was a wrestler</p> <p>8 himself.</p> <p>9 When he got in trouble -- he liked to punch</p> <p>10 people, but if he got hurt, he then felt free to</p> <p>11 wrestle them. So that was my point and</p> <p>12 understanding. It's like, wait, you said you don't</p> <p>13 like my matchmaking, you fight too many wrestlers, so</p> <p>14 you go to Bellator to fight a wrestler. That seemed</p> <p>15 strange.</p> <p>16 Q. Okay. So you're pointing out that oddity.</p> <p>17 And then Shelby says to you: "LOL, I just</p> <p>18 love how Bellator is a tournament based organi...</p> <p>19 Wait. What's going on?"</p> <p>20 What was he saying there?</p> <p>21 A. The -- this was about -- this was before</p> <p>22 Scott Coker. This was back when Bjorn Rebney ran it.</p> <p>23 And they made it a very public point that they were</p> <p>24 different than the UFC, that they didn't do</p> <p>25 matchmaking, that everything they did was based on</p>	<p style="text-align: right;">196</p> <p>1 SILVA</p> <p>2 Q. And what -- what were you implying in this</p> <p>3 conversation about -- about the ability or the --</p> <p>4 the -- about use -- Bellator's using this fight to</p> <p>5 headline a Pay-Per-View with two guys who --</p> <p>6 A. Yeah.</p> <p>7 Q. -- lost nine out of the last ten fights?</p> <p>8 MR. ISAACSON: Objection to form.</p> <p>9 Q. I'm sorry. What point were you -- were you</p> <p>10 two making to each other in this communication?</p> <p>11 A. Once again, trying to --</p> <p>12 MR. ISAACSON: Objection to form.</p> <p>13 Q. You can answer.</p> <p>14 A. -- point out hypocrisy in that it's not that</p> <p>15 that was an unreasonable fight, it actually was a</p> <p>16 fight that made sense where those guys were in their</p> <p>17 career, but to have Bjorn Rebney try to degrade us</p> <p>18 publicly, saying we don't do just match-ups because</p> <p>19 we think they're cool match-ups, it's about the</p> <p>20 tournament.</p> <p>21 It's like wouldn't even be a problem him</p> <p>22 having on the show, but by his philosophy shouldn't</p> <p>23 they be on the show, but it's the tournament, the</p> <p>24 important thing, the thing that you say is so much a</p> <p>25 better a format, shouldn't that be your main event.</p>
<p style="text-align: right;">195</p> <p>1 SILVA</p> <p>2 tournaments, so the fighters really earned their</p> <p>3 spots. But this was an obvious break with that</p> <p>4 philosophy. It's like, they're not in a tournament</p> <p>5 and you're headlining them over the tournament. What</p> <p>6 happened to your great philosophy of tournaments were</p> <p>7 the thing, and -- and that was the most legitimate</p> <p>8 thing. So once again, just kind of pointing out what</p> <p>9 we saw as hypocrisy.</p> <p>10 Q. I see. So that Rebney was saying he's going</p> <p>11 to have this new model and it's going to based -- be</p> <p>12 based on tournaments, not traditional matchmaking?</p> <p>13 A. Yes.</p> <p>14 Q. And this was -- this particular fight was</p> <p>15 not a tournament?</p> <p>16 A. Correct.</p> <p>17 Q. And then you say to Shelby: "These" --</p> <p>18 "these 2 guys both lost their last 3 UFC fights," and</p> <p>19 you're referring to Rampage and Tito?</p> <p>20 A. Yes.</p> <p>21 Q. And then Shelby says: "Headlining a</p> <p>22 pay-per-view with two guys combined losing 9 of the</p> <p>23 last 10 fights."</p> <p>24 Again, that's referring to Rampage and Tito?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">197</p> <p>1 SILVA</p> <p>2 Shouldn't that be the important thing, to push the</p> <p>3 philosophy that you've put out there.</p> <p>4 So that's what we are needing them about,</p> <p>5 was they say this is what they believe, but their</p> <p>6 actions don't show that.</p> <p>7 Q. And -- and were you also communicating to</p> <p>8 each other that it's -- it's not a winning strategy</p> <p>9 in the MMA promotion business to headline a</p> <p>10 Pay-Per-View with two guys who had a combined losing</p> <p>11 record of nine of the last ten fights?</p> <p>12 A. It was not so much that, as that it was</p> <p>13 going against everything that Bjorn Rebney said. It</p> <p>14 wasn't about what we thought of it, it's what we</p> <p>15 thought of how this went exactly against what Bjorn</p> <p>16 Rebney was publicly saying.</p> <p>17 Q. So Shelby says, "they tried to throw a curve</p> <p>18 ball," which means divert from the tournament system;</p> <p>19 right?</p> <p>20 A. Yes.</p> <p>21 Q. But he also says, "then it went into the</p> <p>22 stands." So they throw this curve ball and it</p> <p>23 doesn't even work.</p> <p>24 A. Well --</p> <p>25 MR. ISAACSON: Objection to form.</p>

<p style="text-align: right;">198</p> <p>1 SILVA</p> <p>2 A. -- they had a lot of criticism about it</p> <p>3 publicly. They -- I think they just thought, well,</p> <p>4 people know these guys and they're former champions</p> <p>5 and they'll be happy to see it. But I think they got</p> <p>6 the same things that we were pointing out, a lot of</p> <p>7 people in the public pointing out. I think that's</p> <p>8 why he said it went into the stands, like maybe they</p> <p>9 thought this was going to be received well, but it</p> <p>10 wasn't.</p> <p>11 Q. And you say: "Dana is going to have fun</p> <p>12 smashing that matchup publicly."</p> <p>13 What did you mean by that?</p> <p>14 A. I thought he would have fun smashing it</p> <p>15 publicly.</p> <p>16 Q. Because it wasn't a good match-up?</p> <p>17 A. Well, it -- once again, it wasn't even about</p> <p>18 the match-up. It's not -- like I said, I don't --</p> <p>19 for where they were at in their careers and all, I</p> <p>20 don't think it was a bad match-up. But what -- it</p> <p>21 was going against what Bjorn Rebney said, how they</p> <p>22 were different from us and what their strategy would</p> <p>23 be. They're saying it's not about old guys and UFC</p> <p>24 doesn't have the best people, we do, and the</p> <p>25 tournament is a better way to prove that. But now</p>	<p style="text-align: right;">200</p> <p>1 SILVA</p> <p>2 Bjorn Rebney left Bellator, they ditched the</p> <p>3 tournament strategy.</p> <p>4 Q. What was wrong with the tournament strategy</p> <p>5 in your mind?</p> <p>6 A. Tournaments are just very tough. It's hard</p> <p>7 to ask fighters to fight more than once in a night.</p> <p>8 And it can be inherently unfair -- unfair, just</p> <p>9 because of the match-up. One opponent might have a</p> <p>10 match that lasts 30 seconds and then he's going to</p> <p>11 have to fight again later on that night against</p> <p>12 somebody who was in a war that went the distance.</p> <p>13 It -- we used to do tournaments in the UFC.</p> <p>14 I didn't think that just off the top of my head. I</p> <p>15 had experience through the early years of UFC's doing</p> <p>16 tournaments and why UFC stopped doing tournaments. I</p> <p>17 just saw the pitfalls of it.</p> <p>18 So then when he came out and was claiming,</p> <p>19 no, this is the best way, it's like, wow, I really</p> <p>20 disagree with that.</p> <p>21 Q. When you wrote, "we might as well just close</p> <p>22 up shop now," you were being sarcastic?</p> <p>23 A. Yes. I was known for being sarcastic.</p> <p>24 MR. CRAMER: Okay. Like to mark as the</p> <p>25 next document Silva Exhibit 15.</p>
<p style="text-align: right;">199</p> <p>1 SILVA</p> <p>2 we're deciding to put that ahead of our tournament.</p> <p>3 That's -- it was not the match itself. It was that</p> <p>4 they said that was not their model, but that's then</p> <p>5 what they're going with.</p> <p>6 Q. So they said their model wasn't taking kind</p> <p>7 of old UFC champions who are beyond their prime and</p> <p>8 fighting with each other, and then they headline an</p> <p>9 event with old UFC champions?</p> <p>10 A. Yes.</p> <p>11 Q. And you and Sean and Dana didn't think that</p> <p>12 was a good competitive choice for Bellator to make?</p> <p>13 MR. ISAACSON: Objection to form. Calls</p> <p>14 for speculation.</p> <p>15 Q. Is that right?</p> <p>16 A. Yeah, I don't -- it's -- it's not even that,</p> <p>17 it's that I didn't think the tournament format, which</p> <p>18 was their preferred thing, was the good way to go.</p> <p>19 But Bjorn had made it very clear strongly that he</p> <p>20 thought it was.</p> <p>21 So I was just saying, our point was, this is</p> <p>22 what they claim, but now they're not doing what they</p> <p>23 claimed. But it wasn't about that I thought it was</p> <p>24 wrong. What I actually thought was wrong was his</p> <p>25 original claim was the tournament strategy, and when</p>	<p style="text-align: right;">201</p> <p>1 SILVA</p> <p>2 (Silva Deposition Exhibit 15 marked for</p> <p>3 identification.)</p> <p>4 Q. All right. We've marked this as Silva 15,</p> <p>5 this was separately produced, with the Bates number</p> <p>6 ZFL-1874494, and this is a text from you to Sean</p> <p>7 Shelby and I believe one other.</p> <p>8 Do you know who that other person was? Was</p> <p>9 it Dana White?</p> <p>10 MR. ISAACSON: Wait. Is this an extract</p> <p>11 from one of the other documents?</p> <p>12 MR. CRAMER: This was separately produced.</p> <p>13 You can see the Bates number at the bottom.</p> <p>14 It may also be in an -- an extract, but it was</p> <p>15 separately produced.</p> <p>16 MR. ISAACSON: Okay.</p> <p>17 Q. It's a text that you sent on October 17,</p> <p>18 2014, at 7:09 p.m.</p> <p>19 Do you see that?</p> <p>20 A. Uh-huh. Yes.</p> <p>21 Q. Did you send that?</p> <p>22 A. Yes.</p> <p>23 Q. And this says: "Bellator headlined tonight</p> <p>24 with 2 UFC washouts who were never in title</p> <p>25 contention and it was amazingly boring. Scott Coker</p>

<p style="text-align: right;">202</p> <p>1 SILVA</p> <p>2 is amazing."</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. So at this time, it was Coker who was</p> <p>6 running Bellator; correct?</p> <p>7 A. Yes.</p> <p>8 Q. And do you recall the headlining event that</p> <p>9 you were talking about here?</p> <p>10 A. I don't.</p> <p>11 Q. Is it fair to say that, at least at this</p> <p>12 time, Bellator attempted to headline an event with</p> <p>13 two people who were cut from the UFC?</p> <p>14 A. Yes.</p> <p>15 Q. And that you found it boring; is that right?</p> <p>16 A. Yes. And they were just people who -- in my</p> <p>17 opinion, they had not -- it -- it's not like a Tito</p> <p>18 and Rampage situation where they're both former</p> <p>19 champions. These were guys who were not champions</p> <p>20 even in the UFC. And that they would choose to</p> <p>21 headline them was puzzling to me.</p> <p>22 Q. And when you said, "Scott Coker is amazing,"</p> <p>23 you were being sarcastic?</p> <p>24 A. I think he's an amazing guy. No, I just --</p> <p>25 I didn't understand -- I just -- when I would look at</p>	<p style="text-align: right;">204</p> <p>1 SILVA</p> <p>2 of them could have been local. You know, and not all</p> <p>3 shows are the same magnitude. We have shows of</p> <p>4 varying magnitude of, this is a Pay-Per-View show,</p> <p>5 this is a big Fox show, this is an FS1 show. So</p> <p>6 maybe they did not see it as one of their priority</p> <p>7 events.</p> <p>8 But, yeah, I just did not like the -- the</p> <p>9 match-up. And it -- sometimes you have a fight even</p> <p>10 if they're not high-ranked guys, you just think like</p> <p>11 this should be dynamite. Just stylistically, I</p> <p>12 think -- and you could be wrong, we've many times</p> <p>13 been wrong, but you at least have that anticipation.</p> <p>14 This was one -- especially if it was the two</p> <p>15 that you said, then on paper, like, that -- I would</p> <p>16 not expect that to be a very entertaining fight. So</p> <p>17 I was just super -- it was one that I was just super</p> <p>18 puzzled with.</p> <p>19 Q. And I believe this text was sent to Dana</p> <p>20 White and Lorenzo Fertitta. Does that refresh your</p> <p>21 recollection?</p> <p>22 A. I really don't know. I'm -- I'm pretty sure</p> <p>23 the [REDACTED] is Dana. I'm not sure what Lorenzo's number</p> <p>24 is.</p> <p>25 Q. And you were -- you were -- the main</p>
<p style="text-align: right;">203</p> <p>1 SILVA</p> <p>2 what other people do, I honestly try to figure it</p> <p>3 out. It's like, all right, here's why they would do</p> <p>4 that. And I was just genuinely puzzled.</p> <p>5 To be fair to him, most likely it's a</p> <p>6 situation we get into sometimes too, you have an</p> <p>7 event, an event scheduled, and maybe you had better</p> <p>8 ideas, and those better ideas didn't work out. But</p> <p>9 it was just -- it was -- I was very surprised that</p> <p>10 whatever that match-up was, they ended up making it</p> <p>11 the main event.</p> <p>12 Q. Let me just ask that again, though. When</p> <p>13 you said, "Scott Coker is amazing" --</p> <p>14 A. Yes, I was being sarcastic.</p> <p>15 Q. Okay. Okay. And this -- does it refresh</p> <p>16 your recollection that this fight was Bradley versus</p> <p>17 Neer?</p> <p>18 A. That's possible.</p> <p>19 Q. Okay.</p> <p>20 A. That would be a very unimpressive main</p> <p>21 event.</p> <p>22 Q. Okay. Do you know why the -- Bellator put</p> <p>23 on a main event with unimpressive fighters at that</p> <p>24 time?</p> <p>25 A. I don't -- do not know. It's possible one</p>	<p style="text-align: right;">205</p> <p>1 SILVA</p> <p>2 point -- one of the points of the text was to tell</p> <p>3 White and potentially Fertitta that Bellator was</p> <p>4 pathetic because it couldn't put on a competent</p> <p>5 top-level fight to headline its event?</p> <p>6 MR. ISAACSON: Objection to form.</p> <p>7 A. Yeah, I actually would say no. Most likely</p> <p>8 it's more of me going, look how awesome I am.</p> <p>9 Q. Right. And one way you're attempting to</p> <p>10 show how awesome you are is to show that you were</p> <p>11 putting on much better events and headlining events</p> <p>12 than you would -- than -- than Bellator was capable</p> <p>13 of doing; is that right?</p> <p>14 A. Yes. I felt I was better at doing it, yes.</p> <p>15 Q. And you were better at recruiting top talent</p> <p>16 than Scott Coker was at that time; correct?</p> <p>17 A. I wouldn't say at creating top talent.</p> <p>18 Scott had very good talent come up under his -- his</p> <p>19 watch. You know, that's -- that's the hard thing</p> <p>20 people don't understand. I've always said it, the</p> <p>21 UFC does not have all the best fighters. If you look</p> <p>22 at people in the UFC, they all came from somewhere.</p> <p>23 And Scott had, like -- where he had Kimbo at one time</p> <p>24 and it drew tremendous ratings on network TV. He had</p> <p>25 Gina Carano at her peak. He had some. It's, did I</p>

<p style="text-align: right;">206</p> <p>1 SILVA</p> <p>2 always think that he made the choices that made the</p> <p>3 best use of his talent? No. But he certainly found</p> <p>4 some very good talent.</p> <p>5 Q. Kimbo Slice?</p> <p>6 A. It was -- Kimbo was a guy -- it -- it's hard</p> <p>7 for me because I'm a purist.</p> <p>8 Did I ever think Kimbo was going to be world</p> <p>9 champion? Absolutely not.</p> <p>10 Did people connect with Kimbo and want to</p> <p>11 see him? Absolutely.</p> <p>12 Q. Okay. He died recently?</p> <p>13 A. He did.</p> <p>14 Q. Exhibit 4, it's another one of these text</p> <p>15 compilations.</p> <p>16 MR. ISAACSON: That's the lunch coming.</p> <p>17 MR. CRAMER: Off the record.</p> <p>18 THE VIDEOGRAPHER: Off the record at</p> <p>19 12:09 p.m.</p> <p>20 (Luncheon recess taken at 12:09 p.m.,</p> <p>21 proceedings resumed at 12:44 p.m.)</p> <p>22 THE VIDEOGRAPHER: We're back on the</p> <p>23 record at 12:44 p.m.</p> <p>24 BY MR. CRAMER:</p> <p>25 Q. Good afternoon, Mr. Silva.</p>	<p style="text-align: right;">208</p> <p>1 SILVA</p> <p>2 A. It's that Joe Schilling, who had a losing</p> <p>3 MMA record, they put in with Melvin Manhoef, who --</p> <p>4 who had a good MMA record and seemed to be somebody</p> <p>5 they were trying to push. So you know it's a threat.</p> <p>6 Both guys like to strike, and Joe Schilling's a very</p> <p>7 good striker, but what does he have to gain if he</p> <p>8 beat a pure striker in MMA, that would be just</p> <p>9 assumed. So it seemed like a lot of risk without</p> <p>10 much gain, and it did not go, I think, the way they</p> <p>11 thought it would.</p> <p>12 Q. And you're referring to Bellator?</p> <p>13 A. Yes.</p> <p>14 Q. So Bellator matched Schilling versus</p> <p>15 Manhoef, and in your view that was a stupid match-up?</p> <p>16 A. Yes. I don't like -- I try to make matches</p> <p>17 where both guys -- you -- you don't really know who's</p> <p>18 going to win or lose, but you like to be, it's good</p> <p>19 for this guy if he wins, makes sense, and it's good</p> <p>20 for the other guy if he wins and it makes sense.</p> <p>21 It was particularly hurtful, I think, for</p> <p>22 Manhoef's MMA record to lose to somebody who'd only</p> <p>23 ever had one win and three losses in MMA who's a very</p> <p>24 good kickboxer. It's different sport.</p> <p>25 Q. And when you say, "they make the stupidest</p>
<p style="text-align: right;">207</p> <p>1 SILVA</p> <p>2 Please turn to Exhibit 4, which is the</p> <p>3 compilation of text messages from Mr. White's phone</p> <p>4 that Zuffa produced to us, and turn to page 41 of 146</p> <p>5 in that compilation. And I'd like to draw your</p> <p>6 attention to the e-mail that -- or, I'm sorry, text</p> <p>7 message that Mr. White sent to Mr. Silva dated</p> <p>8 November 15, 2014, at 7:37 p.m., sort of in the</p> <p>9 middle of the page.</p> <p>10 Do you see that?</p> <p>11 A. Uh-huh.</p> <p>12 Q. Okay. Mr. White says to Mr. Silva: "How</p> <p>13 has their show been?"</p> <p>14 And then Mr. Silva responds at 7:39 p.m.:</p> <p>15 "Just been watching UFC. Have Bellator and World</p> <p>16 Series on DVR."</p> <p>17 Then Silva says again to White: "1 and 3,</p> <p>18 Joe Schilling KOed Melvin Manhoef in round 2."</p> <p>19 And White says: "Ouch."</p> <p>20 And Silva says to White: "They make the</p> <p>21 stupidest matches."</p> <p>22 White says: "That is fucking stupid."</p> <p>23 And I'll stop there for the moment.</p> <p>24 So do you recall what this interchange is</p> <p>25 referring to?</p>	<p style="text-align: right;">209</p> <p>1 SILVA</p> <p>2 matches," you're referring to Bellator?</p> <p>3 A. Yes.</p> <p>4 Q. And that seemed to be a more general</p> <p>5 statement about Bellator's matchmaking. Is that</p> <p>6 your -- was that your opinion at the time, that they</p> <p>7 tend to make stupid matches?</p> <p>8 A. Yes, their matchmaking style was not my</p> <p>9 style.</p> <p>10 Q. And you thought it was not a very effective</p> <p>11 style, in your view?</p> <p>12 A. So there -- there's many different types of</p> <p>13 matchmaking. You have fans of each. So there's</p> <p>14 people who enjoy watching squash matches. That's not</p> <p>15 what I enjoy. It's not what I would think is good.</p> <p>16 But there's a market for it.</p> <p>17 That's like -- as I said before, the King of</p> <p>18 the Cage kind of styles. Like, you're going to see a</p> <p>19 bunch of knockouts. It's like, I'm not -- it's cool</p> <p>20 when you get knockouts, but I'm more interested in</p> <p>21 are they evenly matched fights.</p> <p>22 Q. So you can create mismatches that will give</p> <p>23 you knockouts, but that's not an evenly matched</p> <p>24 fight?</p> <p>25 A. Yeah, not in my opinion.</p>

<p style="text-align: right;">210</p> <p>1 SILVA</p> <p>2 Q. Is one reason that Bellator, in your</p> <p>3 opinion, was reduced to making stupid matches was</p> <p>4 because they didn't have enough top talent to put</p> <p>5 again -- to put together a -- a competent event?</p> <p>6 A. No. As I stated earlier with Pride, had</p> <p>7 tons of great talent and still made what I thought</p> <p>8 were dumb match-ups.</p> <p>9 Q. All right. Put that aside.</p> <p>10 I'd like you to turn back to Exhibit 6,</p> <p>11 which is the Silva text compilation that was produced</p> <p>12 to us. And turn your attention in particular to page</p> <p>13 149 of that compilation. And I'd like to draw your</p> <p>14 attention to a text that you sent on June 20th, 2015,</p> <p>15 at 3:06. And I believe you sent it to Dana White,</p> <p>16 among others; is that right?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And you say: "Pit bull is decent but</p> <p>19 it's in the Bellator pool. He lost decisions to both</p> <p>20 Joe Warren and Pat Curran who are ok but not great.</p> <p>21 On a 7 fight win streak though. Was getting beat up</p> <p>22 badly but pulled it off."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. And what were you trying to convey in this</p>	<p style="text-align: right;">212</p> <p>1 SILVA</p> <p>2 fighters in there and he had wrecked them, I'd go,</p> <p>3 oh, that's a measuring stick that I could use. But</p> <p>4 other people on their own still go, no, I just</p> <p>5 think -- I think their pool is as good if not better</p> <p>6 than yours. It -- it's your opinion. But certainly</p> <p>7 the one -- the pool that I'm most familiar with is my</p> <p>8 pool, and it becomes an easier measuring stick.</p> <p>9 Q. So in your opinion, you weren't willing to</p> <p>10 use the Bellator pool of fighters as a matching -- as</p> <p>11 a -- as a measuring stick because you just weren't as</p> <p>12 familiar with those fighters?</p> <p>13 A. Right. But I still pointed out he's on a</p> <p>14 7-fight win streak, though, knowing in that weight</p> <p>15 class that is so full of talent, that's -- that's</p> <p>16 still kind of impressive. It would be more</p> <p>17 impressive if I knew more of the guys that he fought.</p> <p>18 But still pretty impressive.</p> <p>19 Q. And you say he -- he lost to Joe Warren and</p> <p>20 Pat Curran. That was in Bellator?</p> <p>21 A. Yes.</p> <p>22 Q. And, "They're okay but not great"?</p> <p>23 A. Yes.</p> <p>24 Q. All right. And then he went on a 7-fight</p> <p>25 win streak, but then you said he was getting beat up</p>
<p style="text-align: right;">211</p> <p>1 SILVA</p> <p>2 text to Dana White and others?</p> <p>3 A. I believe that Pitbull had been -- he had</p> <p>4 training partners who would, like, pull Dana aside,</p> <p>5 like, oh, this kid, he's the best, you've got to sign</p> <p>6 him, you know, when his deal is up. So he would</p> <p>7 inquire about him, so I'm just giving him my scouting</p> <p>8 report. It's like, oh, I mean, he's doing decently,</p> <p>9 but he's also struggled with some guys that -- that I</p> <p>10 don't necessarily -- I didn't think that the hype</p> <p>11 matched up to the results I had seen.</p> <p>12 Q. And -- and you say: "Pit bull is decent but</p> <p>13 it's in the Bellator pool."</p> <p>14 Was that contrast between him being decent</p> <p>15 but his record is reflecting his fights in the</p> <p>16 Bellator pool, meant to refer to the fact that</p> <p>17 Bellator's pool is -- of fighters isn't as deep as,</p> <p>18 say, the UFC's pool?</p> <p>19 A. It's not that the pool isn't as deep, but</p> <p>20 because they had such a different lightweight</p> <p>21 division, it gets harder to tell. You have guys that</p> <p>22 could be good, but if they haven't -- if they're not</p> <p>23 facing the same guys that you're familiar with, it --</p> <p>24 it's harder to know.</p> <p>25 I say, if there had been more former UFC</p>	<p style="text-align: right;">213</p> <p>1 SILVA</p> <p>2 badly but pulled it off in his last fight?</p> <p>3 A. Yes.</p> <p>4 Q. Would you agree with me you can't just pick</p> <p>5 up guys off the street and have them compete at the</p> <p>6 UFC level; is that fair?</p> <p>7 A. I would agree that you should not do that.</p> <p>8 Q. Okay. And that it's unlikely that if you</p> <p>9 just find a bunch of buys in regional gyms and say,</p> <p>10 I'll sign you to a UFC contract, that those guys are</p> <p>11 likely to be UFC-level MMA fighters; is that fair?</p> <p>12 MR. ISAACSON: Objection to form.</p> <p>13 A. Yeah, you -- it was my opinion -- I wanted</p> <p>14 guys who had the competition experience to let me</p> <p>15 know that they at least had a chance to compete at</p> <p>16 that level. Some didn't work out. There's guys that</p> <p>17 I brought in who never ended up winning a fight, but</p> <p>18 I felt that their record showed they at least</p> <p>19 deserved the shot to prove that.</p> <p>20 MR. CRAMER: I'd like to mark the next</p> <p>21 document as Silva Exhibit 16.</p> <p>22 (Silva Deposition Exhibit 16 marked for</p> <p>23 identification.)</p> <p>24 Q. Silva Exhibit 16 is a one-page e-mail from</p> <p>25 Mr. Fertitta to you, dated December 26, 2012. The</p>

<p style="text-align: right;">214</p> <p>1 SILVA</p> <p>2 subject is Gilbert -- I'm sorry, it's from Silva to</p> <p>3 Fertitta, dated December 26, 2012, the subject is</p> <p>4 Gilbert Melendez. And it bears the Bates number</p> <p>5 ZFL-1012702.</p> <p>6 Melendez was the former Strikeforce</p> <p>7 lightweight champion at the time; is that right?</p> <p>8 A. Yes.</p> <p>9 Q. And by December 2012, the UFC had brought</p> <p>10 him over to the UFC; is that right?</p> <p>11 A. Yes.</p> <p>12 Q. The -- the Strikeforce acquisition was in or</p> <p>13 about March 2011. Does that sound about right?</p> <p>14 A. I believe that's correct.</p> <p>15 Q. Okay. And you write at the top to</p> <p>16 Mr. Fertitta that he received his medical clearance</p> <p>17 on Monday clearing the way for a unification match</p> <p>18 against Benson Henderson April 20 on Fox in San Jose.</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. What did you mean by a unification match?</p> <p>22 A. That since he was the -- he had never lost</p> <p>23 the title from Strikeforce, and that Benson was the</p> <p>24 current UFC champion, that you could do a Strikeforce</p> <p>25 versus UFC champion fight.</p>	<p style="text-align: right;">216</p> <p>1 SILVA</p> <p>2 A. For the same reason why Bellator wouldn't</p> <p>3 want to do it. Why would -- did McDonald's not agree</p> <p>4 to do the co-promotion with the Whopper to have the</p> <p>5 combination burger? They figured, we feel that we</p> <p>6 have this stature, and while Burger King is certainly</p> <p>7 a serious competitor, we don't want to help promote</p> <p>8 them in our promotion.</p> <p>9 Q. So if -- if the UFC were to hold a</p> <p>10 unification match with Bellator, that would help</p> <p>11 promote Bellator? Is that your understanding?</p> <p>12 A. I don't think Bellator would see that even</p> <p>13 that way, though. Right now, without having that</p> <p>14 fight, people could just assume, who are Bellator</p> <p>15 fans, that the Bellator champion is superior. Where,</p> <p>16 if he went and he lost, then it could change their</p> <p>17 minds and make them think it is now inferior. It --</p> <p>18 it's a risk for both sides.</p> <p>19 Q. All right. You start writing in the third</p> <p>20 paragraph here about Eddie Alvarez, in the fourth</p> <p>21 paragraph. You say, "if you gave Alvarez the shot</p> <p>22 and Henderson slipped on a banana peel and lost you</p> <p>23 will have given Bellator the greatest Christmas</p> <p>24 present of all: Bellator's champ would jump from</p> <p>25 number ten to number one. Even just giving their</p>
<p style="text-align: right;">215</p> <p>1 SILVA</p> <p>2 Q. And that unifies -- sort of like in boxing,</p> <p>3 that unifies the title under one promotion?</p> <p>4 A. Yes, it's kind of a continuation for the</p> <p>5 fans of going, but he didn't lose his belt, why is he</p> <p>6 now just not anything.</p> <p>7 Q. So he was a champion in Strikeforce and he's</p> <p>8 fighting a champion at the UFC, and this would unify</p> <p>9 the belts; is that --</p> <p>10 A. Yes.</p> <p>11 Q. Okay. In general, the UFC -- other than in</p> <p>12 situations where the UFC bought the other promotion,</p> <p>13 in general, the UFC does not hold unification matches</p> <p>14 between champions of different promotions; right?</p> <p>15 A. No.</p> <p>16 Q. Meaning, yeah, they do not do that; correct?</p> <p>17 A. We do not do that.</p> <p>18 Q. Why not?</p> <p>19 A. What would be the benefit of that?</p> <p>20 Q. Well, wouldn't the fans want to see the --</p> <p>21 the Bellator champion fight the UFC champion?</p> <p>22 Wouldn't that be interesting to fans?</p> <p>23 A. I don't know that it would be interesting to</p> <p>24 Bellator.</p> <p>25 Q. Why wouldn't UFC want to do it?</p>	<p style="text-align: right;">217</p> <p>1 SILVA</p> <p>2 former champion an immediate title shot puts Bellator</p> <p>3 on a level they don't deserve."</p> <p>4 Did you write that?</p> <p>5 A. Yes.</p> <p>6 Q. And Alvarez was -- he was fighting with</p> <p>7 Bellator at the time?</p> <p>8 A. If I'm talking about him doing it, I don't</p> <p>9 know if we had acquired him. I don't know the time</p> <p>10 frame. I don't know -- I couldn't give him a title</p> <p>11 shot if he was not --</p> <p>12 Q. Okay.</p> <p>13 A. -- available to us.</p> <p>14 Q. So potentially you had acquired Alvarez at</p> <p>15 this time?</p> <p>16 A. I'm guessing that --</p> <p>17 Q. From Bellator. He was previously the</p> <p>18 Bellator lightweight champion?</p> <p>19 A. Yes. But I -- I don't believe he left as a</p> <p>20 champion.</p> <p>21 Q. Okay. So he may have -- he was at one time</p> <p>22 a Bellator lightweight champ?</p> <p>23 A. Yes. Correct.</p> <p>24 Q. He may have lost, then you signed him?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">218</p> <p>1 SILVA</p> <p>2 Q. Okay. Do you recall whether Zuffa was</p> <p>3 negotiating with Eddie Alvarez at the time you wrote</p> <p>4 this?</p> <p>5 A. I don't recall just looking from context if</p> <p>6 that's being brought up as a possibility. I would</p> <p>7 guess that he was available.</p> <p>8 Q. Okay.</p> <p>9 A. Because there would be no point in bringing</p> <p>10 it up if he's not available.</p> <p>11 Q. Henderson, at the time, was the UFC's</p> <p>12 champion; correct?</p> <p>13 A. Correct.</p> <p>14 Q. And what you're conveying here with the</p> <p>15 "slipped on a banana peel," is that you expected</p> <p>16 Henderson to be able to beat Alvarez if you had</p> <p>17 matched them up, but worried that there was some</p> <p>18 chance that Alvarez could slip up -- that Henderson</p> <p>19 could slip up and Alvarez wins and it would make it</p> <p>20 seem like a former Bellator guy was at the UFC level,</p> <p>21 is that what you're trying to say?</p> <p>22 A. No, because you could also say that with</p> <p>23 Strikeforce where we're talking about it instead</p> <p>24 being Gilbert Melendez. The thing was that he was,</p> <p>25 at that point, so low in the rankings. It's like,</p>	<p style="text-align: right;">220</p> <p>1 SILVA</p> <p>2 at your champion, that -- and -- and -- and Alvarez</p> <p>3 wins, why would that be the greatest Christmas</p> <p>4 present that Bellator could get?</p> <p>5 A. Because Bellator could say that guy's not</p> <p>6 even our champion. We have a guy who beat him and he</p> <p>7 beat the UFC. See, our guys are better.</p> <p>8 Q. Why would that benefit Bellator?</p> <p>9 A. Because that's -- as a competitor, that's --</p> <p>10 every promotion wants to be able to claim to be</p> <p>11 number one, to claim that you have the best fighters.</p> <p>12 That gives some teeth to that claim.</p> <p>13 Q. And you wanted to avoid the possibility of</p> <p>14 giving Bellator a Christmas present by allowing one</p> <p>15 of their former champions the opportunity to beat one</p> <p>16 of your champions?</p> <p>17 A. Not even to beat him; that, why would he</p> <p>18 fight him when he's ranked that low. There,</p> <p>19 you're -- you would basically be saying the only</p> <p>20 reason this guy is getting a title shot is because he</p> <p>21 used to be a champion in another organization. It's</p> <p>22 like, how do you justify that over all these -- like</p> <p>23 a Gilbert Melendez, who is ranked higher than him and</p> <p>24 is a former champion, and currently, had not lost the</p> <p>25 championship. That's credible.</p>
<p style="text-align: right;">219</p> <p>1 SILVA</p> <p>2 wait, so you're taking a lower-rated Bellator guy and</p> <p>3 saying being a low-rated Bellator guy makes you</p> <p>4 worthy of fighting the best guy in the UFC, that</p> <p>5 doesn't make sense. That hurts us.</p> <p>6 Q. How does it hurt you?</p> <p>7 A. Because he's a lower-level guy. By the</p> <p>8 rankings, not because he's in Bellator. If you</p> <p>9 looked at -- at where he was in -- in the overall</p> <p>10 rankings, he was not as high up as a Gilbert</p> <p>11 Melendez. Even though Gilbert Melendez winning, you</p> <p>12 can go, oh, see, we knew Strikeforce had the better</p> <p>13 fighters all along.</p> <p>14 Q. Right.</p> <p>15 A. And that some people could say that, but</p> <p>16 he's ranked number 3, it's still you'll -- that's</p> <p>17 legitimate.</p> <p>18 If Eddie had been ranked number 3 and we</p> <p>19 needed a title defense for that, it's like okay,</p> <p>20 that's defensible.</p> <p>21 Being ranked lower than that? It's like,</p> <p>22 this -- how -- how is this good.</p> <p>23 Q. So why would it be that if you give this</p> <p>24 Alvarez, a former Bellator champion, who was at that</p> <p>25 time a little bit lower in the rankings, a -- a shot</p>	<p style="text-align: right;">221</p> <p>1 SILVA</p> <p>2 You could still say, oh, well, that -- could</p> <p>3 help people who were Strikeforce fans all along and</p> <p>4 tried to say that they thought they had a better</p> <p>5 lightweight division, that could help; but, yeah, it</p> <p>6 could, but it's defensible, there's a reason why you</p> <p>7 would do it. I did not see why, at that point, you</p> <p>8 would do that with Eddie Alvarez. It was all benefit</p> <p>9 to Bellator. If he lost, Bellator would just go, he</p> <p>10 lost in our show too. We don't care. So there was</p> <p>11 nothing for them to lose and only to gain.</p> <p>12 Q. Well, Alvarez if he fought Henderson, would</p> <p>13 be fighting for the UFC, right, not Bellator; right?</p> <p>14 A. But Bellator would still use that former</p> <p>15 fighter and that -- use specifically that he was not</p> <p>16 their champion, that he had lost to their current</p> <p>17 champion.</p> <p>18 Q. And you say, "Bellator's champ would jump</p> <p>19 from number ten to number one." You mean if --</p> <p>20 A. Well, because he'd be the champion.</p> <p>21 Champion's number 1. Which, there's different ways</p> <p>22 of doing the rankings. Like, if you'll notice</p> <p>23 disparity in, like, the official rankings, the</p> <p>24 champion is not ranked number 1.</p> <p>25 Basically you have the champion and then you</p>

<p style="text-align: right;">222</p> <p>1 SILVA</p> <p>2 have top-ranked contenders. So this is number 1</p> <p>3 contender.</p> <p>4 This particular listing, though, is just</p> <p>5 taking it -- if you're going of all divisions in the</p> <p>6 world, here's who we think is the best, because</p> <p>7 somebody under this time could go, you may be the UFC</p> <p>8 champion but we don't think you're the best. We have</p> <p>9 the UFC champion at 2 and the Strikeforce champion at</p> <p>10 number 1.</p> <p>11 Q. At this time, at least from the context</p> <p>12 here, it makes it seem like Bellator's champ,</p> <p>13 Alvarez, at that time, was number 10.</p> <p>14 A. He was not the champion.</p> <p>15 Q. He was not the champion.</p> <p>16 A. Michael Chandler, I believe, was.</p> <p>17 Q. Was. Okay.</p> <p>18 And then you say: "Even just giving</p> <p>19 their" --</p> <p>20 A. Right. Who was ranked higher. He's --</p> <p>21 Michael Chandler's on these rankings. He's from</p> <p>22 Bellator.</p> <p>23 Q. Right. You have the rankings listed here.</p> <p>24 Number 10 is Michael Chandler?</p> <p>25 A. Yeah.</p>	<p style="text-align: right;">224</p> <p>1 SILVA</p> <p>2 responsibility for filling bout slots and creating</p> <p>3 cards, is that right, fight cards?</p> <p>4 A. Yes.</p> <p>5 Q. And for each UFC event, there's a certain</p> <p>6 number of bouts?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. How many bouts are there in a -- on a</p> <p>9 typical fight card?</p> <p>10 A. It fluctuated greatly through the years. It</p> <p>11 swelled in number due to creating more weight</p> <p>12 classes, two shows that we acquired, to things like</p> <p>13 The Ultimate Fighter, which created an influx of</p> <p>14 fighters where all of a sudden you needed more space.</p> <p>15 So early on, it was like 8 fights a show, then 9,</p> <p>16 then 10, then 11, but their maximum was 13 fights.</p> <p>17 Which there's -- there's very good things about it</p> <p>18 and then there was things that I didn't like as much</p> <p>19 about it. To me, it's just a long show.</p> <p>20 Q. Thirteen fights is a long show.</p> <p>21 A. In my opinion. But there are people who</p> <p>22 would be there from the very first fight and loving</p> <p>23 it, where they saw this is more bang for my buck.</p> <p>24 But, you know, maybe it was laziness on my part. I</p> <p>25 had to go to a lot of these shows, and it's like this</p>
<p style="text-align: right;">223</p> <p>1 SILVA</p> <p>2 Q. And then you say: "Even just giving their</p> <p>3 former champion an immediate title shot puts Bellator</p> <p>4 on a level they don't deserve."</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Did you say that?</p> <p>8 A. I did.</p> <p>9 Q. So giving their former champion a immediate</p> <p>10 title shot puts Bellator on a level with UFC, and</p> <p>11 they don't deserve it, is that what you're saying?</p> <p>12 A. No. I'm saying that to have a guy who's not</p> <p>13 ranked in -- on these rankings in the top ten get a</p> <p>14 title shot puts -- it's like why would you do that.</p> <p>15 What are you -- are you saying there's something so</p> <p>16 special about Bellator, more special than Pride ever</p> <p>17 was and Strikeforce ever was, that anybody was, that</p> <p>18 the guy who lost their title gets a title fight?</p> <p>19 It's just nonsensical. But Bellator would try to</p> <p>20 spin that nonsense into going, look how great we are,</p> <p>21 they're giving a guy who lost to our guy their title</p> <p>22 fight.</p> <p>23 Q. All right. In addition to your</p> <p>24 responsibility of -- in pitting individual fighters</p> <p>25 against each other for bouts, you also had the</p>	<p style="text-align: right;">225</p> <p>1 SILVA</p> <p>2 is another really long show. And -- and I got to get</p> <p>3 on a plane and fly to another one in a couple of</p> <p>4 days.</p> <p>5 Q. Putting that aside, would you agree that</p> <p>6 since -- in or about 2007 or '08 the UFC increased</p> <p>7 the number of fighters it had under contract?</p> <p>8 A. Yes.</p> <p>9 Q. Would you agree that the number of fighters</p> <p>10 the UFC had under contract increased when the WEC</p> <p>11 merged with the UFC?</p> <p>12 A. Yes.</p> <p>13 Q. And that the number of fighters the UFC had</p> <p>14 under contract also increased when the UFC merged and</p> <p>15 took over Strikeforce?</p> <p>16 A. Yes.</p> <p>17 MR. CRAMER: Like to mark the next</p> <p>18 document as Silva Exhibit 17.</p> <p>19 (Silva Deposition Exhibit 17 marked for</p> <p>20 identification.)</p> <p>21 Q. This is a December 2010 e-mail, it bears the</p> <p>22 Bates range ZFL-2206527 through 529. And it's</p> <p>23 actually two e-mails. It's one at the bottom from</p> <p>24 Mr. Ismael to you, and then one at the top from you</p> <p>25 to Mr. Ismael.</p>

<p style="text-align: right;">226</p> <p>1 SILVA</p> <p>2 You write at the top -- is this your e-mail,</p> <p>3 by the way?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. You write at the top: "I am sorry</p> <p>6 but I just do not have a spot right now. I really</p> <p>7 tried a place for him but with the WEC merger I have</p> <p>8 70 fighters too many under contract."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. So at this time, in December of 2010, you</p> <p>12 had 70 fighters too many under contract?</p> <p>13 A. Yes. That was my opinion.</p> <p>14 Q. What did that mean?</p> <p>15 A. Well, when we had the acquisition, you now</p> <p>16 have to fit those people into the shows, and you only</p> <p>17 have but so many spots. Unless you increase the</p> <p>18 number of shows you do or increase the spots that you</p> <p>19 have in the show, it -- sometimes it can be</p> <p>20 challenging to work those extra fighters in, because</p> <p>21 it's not a slow, you know, acquisition, it's all at</p> <p>22 once.</p> <p>23 Q. And that was difficult to combine and</p> <p>24 take -- and -- and -- strike that.</p> <p>25 You say: "I have some guys who are going to</p>	<p style="text-align: right;">228</p> <p>1 SILVA</p> <p>2 manage -- the roster to a more manageable level.</p> <p>3 Q. You say: "I have some guys who are going to</p> <p>4 be waiting 6 months for a fight."</p> <p>5 Is that a long time to wait, in your</p> <p>6 opinion?</p> <p>7 A. It's longer than I would like somebody to</p> <p>8 wait. I want to have guys fighting as often as they</p> <p>9 would like to. Some guys don't like to fight that</p> <p>10 often. Some guys are Cowboy Cerrone, you want to</p> <p>11 fight every two weeks. So you -- you're trying to</p> <p>12 take their wants and needs into consideration.</p> <p>13 Q. But you don't generally want to have</p> <p>14 fighters wait 6 months for a fight?</p> <p>15 A. Yeah, I'd prefer not to.</p> <p>16 Q. And Zuffa didn't typically aim for fighters</p> <p>17 to fight only twice a year?</p> <p>18 A. No, that was not our aim.</p> <p>19 Q. Right. And fighters only get paid by Zuffa,</p> <p>20 in general, when they fight?</p> <p>21 A. Yes.</p> <p>22 Q. And -- and UFC's contracts prevent them from</p> <p>23 fighting for other MMA promotions while they're under</p> <p>24 contract with Zuffa; correct?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">227</p> <p>1 SILVA</p> <p>2 be waiting 6 months for a fight."</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. What did that mean?</p> <p>6 A. That meant, just looking at it</p> <p>7 mathematically, should everybody stay healthy and I'm</p> <p>8 just mapping out fights, there's going to be fighters</p> <p>9 left over who did not have a fight, because you only</p> <p>10 have but so many spots. And there would be times</p> <p>11 when I would request either additional spots or</p> <p>12 additional shows to take care of those fighters.</p> <p>13 Q. When you say that you had too many under</p> <p>14 contract, you mean more fighters than you had</p> <p>15 available bouts to slot them in; is that right?</p> <p>16 A. Yes, at the moment.</p> <p>17 Q. And you say: "It is going to take me until</p> <p>18 the middle of next year to get this to a manageable</p> <p>19 level."</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. What did you mean by that?</p> <p>23 A. Exactly what it said, that it would take</p> <p>24 time to get everybody settled in and back through,</p> <p>25 and you would have to work out through -- get the</p>	<p style="text-align: right;">229</p> <p>1 SILVA</p> <p>2 Q. So if -- if UFC had too many fighters under</p> <p>3 contract during this period in 2010 for you to give</p> <p>4 them sufficient number of bouts, why didn't the UFC</p> <p>5 allow some of its fighters to fight for another</p> <p>6 promotion while the glut subsided?</p> <p>7 A. Actually, they did.</p> <p>8 Q. Another MMA promotion?</p> <p>9 A. Yes.</p> <p>10 Q. So who did?</p> <p>11 A. We've had -- there was a number of guys</p> <p>12 who -- we'd have to go get with Tracy Long and see</p> <p>13 who did. But there were fighters who fought in other</p> <p>14 shows, that were given a release to do so, to help</p> <p>15 in -- in situations like that. Just because the</p> <p>16 contract -- basically all you needed was permission</p> <p>17 to do it. Even back in the day, Chuck Liddell fought</p> <p>18 in Pride when he was under contract to us. It didn't</p> <p>19 happen a lot, but it did happen, that UFC fighters</p> <p>20 under exclusive contract fought in other shows.</p> <p>21 Q. How often did it happen? Was it a regular</p> <p>22 thing?</p> <p>23 A. I don't know. Maybe probably overall 20</p> <p>24 times.</p> <p>25 Q. Twenty times in the --</p>

<p style="text-align: right;">230</p> <p>1 SILVA</p> <p>2 A. But in key times, key periods, if I have two</p> <p>3 guys who are bugging me for a fight that I have no</p> <p>4 spot for, that takes a lot of pressure off. It's</p> <p>5 like, hey, you can fight in this other show if you</p> <p>6 want to. That is very valuable to that fighter.</p> <p>7 It -- it didn't matter if it was one, it's me and I</p> <p>8 need to fight, as you said you need to get paid, so</p> <p>9 we gave them the opportunity to do that.</p> <p>10 Q. So you were at Zuffa -- at the UFC from 1994</p> <p>11 to 2016; is that right?</p> <p>12 A. Yes.</p> <p>13 Q. That's 22 years?</p> <p>14 A. Yes.</p> <p>15 Q. And in 22 years, you say there were about 20</p> <p>16 times where you're aware that Zuffa allowed a -- one</p> <p>17 of its fighters under exclusive contract with Zuffa</p> <p>18 to fight for another mixed martial arts promotion?</p> <p>19 A. That's not correct, because Zuffa didn't own</p> <p>20 the UFC 22 years.</p> <p>21 Q. Okay. Where the UFC -- well, so is your 20</p> <p>22 times Zuffa --</p> <p>23 A. Because there are different contracts</p> <p>24 between -- I worked for the UFC for 22 years.</p> <p>25 Q. I see.</p>	<p style="text-align: right;">232</p> <p>1 SILVA</p> <p>2 A. I can also tell you that our contracts are</p> <p>3 different now than they were a year from now, but I</p> <p>4 couldn't tell you in what ways.</p> <p>5 Q. Okay. So let's -- let's take it from 2001</p> <p>6 to 2016. From 2001 to 2016 -- well, let me -- let me</p> <p>7 just ask it this way.</p> <p>8 The 20 times that you recall or say --</p> <p>9 approximate the 20 times where a UFC fighter fought</p> <p>10 for another MMA promotion, during what time period is</p> <p>11 that?</p> <p>12 A. I would say from modern Zuffa era, so maybe</p> <p>13 17 years.</p> <p>14 Q. Okay. So it's a little bit more than one a</p> <p>15 year?</p> <p>16 A. Yeah.</p> <p>17 Q. And how --</p> <p>18 A. But it also could be that it had no times in</p> <p>19 one year, happened twice --</p> <p>20 Q. Okay.</p> <p>21 A. -- in another year. It just depended on --</p> <p>22 it's something you would rather the fighter, you</p> <p>23 know, signed a UFC contract, he would like to fight</p> <p>24 in the UFC, but it's trying to work with the fighter</p> <p>25 and find a way to best rectify the situation.</p>
<p style="text-align: right;">231</p> <p>1 SILVA</p> <p>2 A. Zuffa hasn't owned it for 22. I worked for</p> <p>3 both companies.</p> <p>4 Q. I see.</p> <p>5 A. And they had different policies and</p> <p>6 different contracts.</p> <p>7 Q. What were the difference -- what were the</p> <p>8 differences between the policies and the contracts</p> <p>9 between the pre-Zuffa UFC and the post-Zuffa UFC?</p> <p>10 A. I'm not a lawyer.</p> <p>11 Q. Right.</p> <p>12 A. And I didn't deal much with contracts. And</p> <p>13 especially for the old UFC, I was not a matchmaker.</p> <p>14 I was a technical consultant. I would give my</p> <p>15 opinion on things, work on the rules, work on stuff</p> <p>16 for productions, I might give ideas on match-ups and</p> <p>17 stuff, but I was not handling fighter contracts or</p> <p>18 making the fights, so I can't speak on that.</p> <p>19 Q. Well, you just said that they had very</p> <p>20 different contracts. I'm just trying to figure</p> <p>21 out what --</p> <p>22 A. They did. I know, because it's different</p> <p>23 lawyers, different size. You could just tell from</p> <p>24 the size of them that they were different.</p> <p>25 Q. Other than the size of the contracts --</p>	<p style="text-align: right;">233</p> <p>1 SILVA</p> <p>2 Q. And once -- or about once and sometimes</p> <p>3 maybe twice, you allow -- you or the UFC allowed a</p> <p>4 fighter under exclusive contract with the UFC to</p> <p>5 fight in another MMA promotion?</p> <p>6 A. Yes.</p> <p>7 Q. And were those -- did it matter to you when</p> <p>8 you allowed this to happen that the fights were --</p> <p>9 were or were not televised?</p> <p>10 A. Yes.</p> <p>11 Q. All right. So in what way did it matter?</p> <p>12 A. It was one of the provisions, that it</p> <p>13 wouldn't be a televised fight.</p> <p>14 Q. Why did you stipulate that as part of your</p> <p>15 allowing a fighter to fight for another MMA</p> <p>16 promotion?</p> <p>17 A. You would have to ask the legal department.</p> <p>18 I was just told, if you want -- I was like, hey, can</p> <p>19 I have this guy fight? Yes, those are the</p> <p>20 provisions.</p> <p>21 Q. I see. So you would ask legal, this guy</p> <p>22 wants to fight, I have a glut of fighters, I'd like</p> <p>23 to allow him to fight; and they'd tell you these are</p> <p>24 the provisions that would apply?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">234</p> <p>1 SILVA</p> <p>2 Q. And one of those stipulations was that the</p> <p>3 fight could not be televised; is that right?</p> <p>4 A. I believe so.</p> <p>5 Q. Was another stipulation that the fight could</p> <p>6 not be in the United States?</p> <p>7 A. No.</p> <p>8 Q. What were some of the other stipulations</p> <p>9 that you can recall?</p> <p>10 A. That's the only one that I remember.</p> <p>11 MR. CRAMER: All right. I'd like to mark</p> <p>12 as the next document Silva 18.</p> <p>13 (Silva Deposition Exhibit 18 marked for</p> <p>14 identification.)</p> <p>15 Q. Silva 18 is a one-page document with two</p> <p>16 e-mails. It has the Bates range ZFL-2206472. So</p> <p>17 this is -- the bottom e-mail is from Mr. Tiago</p> <p>18 Okamura --</p> <p>19 A. Uh-huh.</p> <p>20 Q. -- sent Friday, October 29, 2010, to you.</p> <p>21 And the subject is Daniel Acacio --</p> <p>22 A. Yes.</p> <p>23 Q. -- and Erick Silva.</p> <p>24 Do you recall receiving this e-mail?</p> <p>25 A. I see that I received this e-mail.</p>	<p style="text-align: right;">236</p> <p>1 SILVA</p> <p>2 of the WEC merger, if you can recall?</p> <p>3 A. I think that -- I believe we only added the</p> <p>4 two below lightweight, and then expanded later.</p> <p>5 Q. Okay. And you respond to Mr. Okamura on</p> <p>6 November 3rd, 2010, you say: "With the WEC merger I</p> <p>7 have too many guys right now so openings are sparse.</p> <p>8 Keep your guys winning and maybe something will open</p> <p>9 up in the future."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. So what were you telling Mr. Okamura, that</p> <p>13 as a result of the merger you didn't have openings?</p> <p>14 A. Right. Where I might normally, now I was</p> <p>15 going to have to -- I had contractual obligations to</p> <p>16 all those WEC guys, so my priority was to get them</p> <p>17 fights rather than people who were not under contract</p> <p>18 to me.</p> <p>19 But we had dropouts happen constantly, and</p> <p>20 that's what I'd let people know. It's like, look, if</p> <p>21 your guy's in shape, that -- that could be his</p> <p>22 opportunity. If an opening comes up and somebody</p> <p>23 under contract does not want it, now I can -- now</p> <p>24 that gives me the opening to sign somebody who's not</p> <p>25 currently signed.</p>
<p style="text-align: right;">235</p> <p>1 SILVA</p> <p>2 Q. Yeah, you don't -- you don't deny --</p> <p>3 A. Yeah.</p> <p>4 Q. -- that you received this e-mail?</p> <p>5 A. No.</p> <p>6 Q. Okay. And this -- this -- and do you know</p> <p>7 who Mr. Okamura is?</p> <p>8 A. Yes, I do.</p> <p>9 Q. Who is he?</p> <p>10 A. He's an MMA manager.</p> <p>11 Q. Okay. And he managed fighters including</p> <p>12 Acacio and Silva?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And he says: "Hi Joe, how are you</p> <p>15 doing mate? Things are going to be very interesting</p> <p>16 next year with all the divisions under the same</p> <p>17 banner."</p> <p>18 Do you know what he was referring to there?</p> <p>19 A. I'm sure it's the WEC merger.</p> <p>20 Q. So part of the WEC merger with the UFC was</p> <p>21 that there were -- there were divisions that the UFC</p> <p>22 did not have until the merger with the -- with WEC;</p> <p>23 is that right?</p> <p>24 A. Correct.</p> <p>25 Q. Which divisions did the UFC add as a result</p>	<p style="text-align: right;">237</p> <p>1 SILVA</p> <p>2 Q. But at least as of November 2010, as a</p> <p>3 result of the WEC merger, you had too many guys and</p> <p>4 openings were sparse; is that right?</p> <p>5 A. Correct.</p> <p>6 MR. CRAMER: All right. I'd like to have</p> <p>7 marked as the next exhibit Silva 19, the next</p> <p>8 document.</p> <p>9 (Deposition Exhibit 19 marked for</p> <p>10 identification.)</p> <p>11 Q. Silva 19 is a series of three e-mails on one</p> <p>12 page, bearing the Bates range ZFL-2444687. It's a</p> <p>13 July 2011 e-mail exchange between you and Dan</p> <p>14 Lambert. Who is Dan Lambert?</p> <p>15 A. He is the owner of American Top Team and an</p> <p>16 MMA manager.</p> <p>17 Q. What is American Top Team?</p> <p>18 A. It's one of the premier gyms in the world.</p> <p>19 Q. And a gym is where MMA fighters train?</p> <p>20 A. Yes.</p> <p>21 Q. And Mr. Lambert represents fighters, MMA</p> <p>22 fighters?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And in this e-mail, he was sending</p> <p>25 you two perspective fighters for an event in</p>

<p style="text-align: right;">238</p> <p>1 SILVA</p> <p>2 November of 2011?</p> <p>3 A. Yes.</p> <p>4 Q. And at the top of the page, this is July</p> <p>5 of 2011, you say: "I have too many guys. Look how</p> <p>6 long it's taking for me to get your other guys</p> <p>7 fighters."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. So in July of 2011, you still had too many</p> <p>11 guys; is that right?</p> <p>12 A. Yes.</p> <p>13 Q. And what did you mean when you said you had</p> <p>14 too many guys? Is that -- is that the point you were</p> <p>15 making before, that you didn't have enough --</p> <p>16 A. Yes.</p> <p>17 Q. -- room on your cards --</p> <p>18 A. Right, to get every --</p> <p>19 Q. -- for the guys --</p> <p>20 A. -- keep everybody fighting as much as they</p> <p>21 would like to fight. And the point that I made to</p> <p>22 him, which was always surprising to me, two -- four</p> <p>23 managers where they have fighters already under</p> <p>24 contract, and they're like, this guy wants to fight,</p> <p>25 this guy wants to fight, and I'm like, look, I'm</p>	<p style="text-align: right;">240</p> <p>1 SILVA</p> <p>2 or just natural -- there's a weird ebb and flow of</p> <p>3 sometimes you have a lot of people who just happen to</p> <p>4 be injured, and then you have a lot of people who all</p> <p>5 return at the same time.</p> <p>6 So last weekend I'm like, oh, we're good,</p> <p>7 and then all -- all of a sudden people are like, I --</p> <p>8 I'm healed now, I'm healthy, and I want to fight</p> <p>9 tomorrow. And we're like, oh, wait, I didn't know</p> <p>10 you were going to be back that quickly. Now you have</p> <p>11 to deal with that.</p> <p>12 MR. CRAMER: All right. I'd like to mark</p> <p>13 as the next document Silva Exhibit 20.</p> <p>14 (Silva Deposition Exhibit 20 marked for</p> <p>15 identification.)</p> <p>16 Q. Okay. This is a series of text messages</p> <p>17 that Zuffa produced to us on behalf of Lorenzo</p> <p>18 Fertitta, and it bears the Bates number ZFL-2699678,</p> <p>19 and it's a 178-page compilation document.</p> <p>20 And I'd like to -- you to turn your</p> <p>21 attention to page 79 of the compilation document of</p> <p>22 Silva 20. And so draw your attention to a text dated</p> <p>23 February 6, 2013, at 2:50 p.m. It's towards the</p> <p>24 bottom of the page. And presumably it's from</p> <p>25 Fertitta to you, dated February 6, 2013, at</p>
<p style="text-align: right;">239</p> <p>1 SILVA</p> <p>2 looking for a spot for them, I'll get right back to</p> <p>3 you. They go, oh, by the way, here's more fighters.</p> <p>4 It's like, don't you want me to take care of your</p> <p>5 fighters that you already have a commitment to?</p> <p>6 So that's what I'm kind of trying to make</p> <p>7 clear to Dan. You want your currently signed</p> <p>8 fighters to fight more actively, how am I going to do</p> <p>9 that if I bring in even more fighters.</p> <p>10 Q. And at this time, you just -- you had too</p> <p>11 many and you couldn't bring on new ones?</p> <p>12 A. Right. But that could also change, as many</p> <p>13 of these did, in a day. Like, I have no room for</p> <p>14 your guy; oh, I had a dropout, nobody else would take</p> <p>15 it, and now I do.</p> <p>16 Q. And July of 2011 was just after the</p> <p>17 Strikeforce merger; is that right? I think that was</p> <p>18 in March 2011.</p> <p>19 A. Yeah, I'm not sure on the dates.</p> <p>20 Q. But it would make sense that your having too</p> <p>21 many guys in part resulted from the Strikeforce</p> <p>22 merger; correct?</p> <p>23 MR. ISAACSON: Objection to form.</p> <p>24 A. Yes. And that's not the only reason why.</p> <p>25 There was times where, from Ultimate Fighter series</p>	<p style="text-align: right;">241</p> <p>1 SILVA</p> <p>2 2:50 p.m., and he says to you: "Who you got for</p> <p>3 Pyle. He wants to fight Maia."</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. Who is Pyle?</p> <p>7 A. Mike Pyle.</p> <p>8 Q. He was a UFC fighter?</p> <p>9 A. Yes.</p> <p>10 Q. And Maia is another UFC fighter?</p> <p>11 A. Yes.</p> <p>12 Q. And Pyle wanted, at this time, to fight</p> <p>13 Maia?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And you respond to Mr. Fertitta:</p> <p>16 "I'm well aware. He and his manager are harassing</p> <p>17 me. I have hundreds of guys waiting on fights and</p> <p>18 Maia just fought."</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. And so what were you telling Mr. Fertitta</p> <p>22 here?</p> <p>23 A. I was just -- sometimes fighters will --</p> <p>24 if -- I always do my best to be very communicative</p> <p>25 and let them know that they feel -- if they go</p>

<p style="text-align: right;">242</p> <p>SILVA</p> <p>around, I'll go to Dana, I'll go to Lorenzo, and they'll get a fight faster. And you see they will contact me, going, hey, Mike Pyle wants to fight. I'm just letting you know I'm well aware of that. It's not like I -- I don't know. I've communicated with them and let them know.</p> <p>But especially it would make more sense and be more fair to the roster for Mike Pyle to fight somebody who also has not just fought. I need to get a fight for somebody who also has not fought super recently.</p> <p>Q. And at that time you had hundreds of guys waiting on fights?</p> <p>A. Which I think is my exaggerating. Obviously you only have but so many hundreds under contract, and we're putting on lots of shows. But it's just more me expressing to him, I've got lots of guys.</p> <p>Q. There -- and lots of guys waiting on fights. And -- and am I right that this is after Strikeforce's last event as a standalone entity?</p> <p>A. I don't know the dates on that.</p> <p>Q. But it's fair to say that after the Strikeforce purchase, and then at some point the UFC shut Strikeforce down?</p>	<p style="text-align: right;">244</p> <p>SILVA</p> <p>fight a fight at -- at intervals that you would have wanted to have; is that right?</p> <p>A. Well, it's not just that. It's, the issue as I was explaining to him, I was going to get Mike Pyle a fight, that was not an issue; the issue was he was asking to fight somebody who had just fought, which would then prevent me -- would make it impossible for me to get a fight for another fighter in a timely manner. So that's what we were constantly juggling.</p> <p>Q. Would you agree with me that if Strikeforce -- if -- if Zuffa hadn't purchased Strikeforce, and Strikeforce still existed as a standalone entity, that fighters who were added to your stable of fighters would be at Strikeforce and being able to fight more regularly?</p> <p>A. No, not necessarily, because Strikeforce did not utilize their roster on their entire cards. Quite often as a cost-cutting measure, they would farm out their undercards to just different local promoters and use fighters who were not under Strikeforce contract. So they still had a limited amount of spots on each show that they did.</p> <p>Q. Right. But those fighters were fighting,</p>
<p style="text-align: right;">243</p> <p>SILVA</p> <p>A. Yes.</p> <p>Q. And merged the contracts that were under the Strikeforce banner into the UFC banner?</p> <p>A. Yes.</p> <p>Q. Okay. And at that time, the -- you then had many more fighters?</p> <p>A. Correct.</p> <p>Q. And assuming that this was in or around the time that Strikeforce was shut down and the -- the Strikeforce fighters were now under the UFC, that could have been one of the reasons why you have all these guys waiting on fights; is that right?</p> <p>MR. ISAACSON: Objection. Foundation.</p> <p>Form.</p> <p>A. Yes, that's possible.</p> <p>Q. Okay. And when you say "waiting on fights," do you mean -- did you mean to convey that these were fighters who were otherwise ready and willing to fight and compete, but did not yet have their next fight scheduled?</p> <p>A. Yes.</p> <p>Q. And many of these fighters -- and at this time, at least, you didn't have enough room for -- to schedule enough fights to give everyone who wanted to</p>	<p style="text-align: right;">245</p> <p>SILVA</p> <p>they might not have been fighting for Strikeforce, they were fighting --</p> <p>A. But if you don't have that many shows and you have even less spots, doesn't necessarily mean that they'll fight more often.</p> <p>Q. No, I think you just said that those fighters that weren't fighting for Strikeforce, Strikeforce would farm them out to fight under a local promoter's --</p> <p>A. No, that's not what I said.</p> <p>Q. Oh, I'm sorry.</p> <p>A. That's the opposite of what I said.</p> <p>Q. Oh.</p> <p>A. What I said was, on a Strikeforce show, half the fighters on that card, the untelevised undercard, were fighters they got a local promotion to throw on their card --</p> <p>Q. I see.</p> <p>A. -- onto the Strikeforce card. So they're not actually Strikeforce fighters.</p> <p>Q. Okay.</p> <p>A. So they're not using all of their spots for Strikeforce fighters.</p> <p>Q. Right. And -- but there -- but those fights</p>

<p style="text-align: right;">246</p> <p>1 SILVA</p> <p>2 that Strikeforce is promoting are occurring if</p> <p>3 Strikeforce exists and --</p> <p>4 A. Yes.</p> <p>5 Q. -- not occurring if Strikeforce doesn't</p> <p>6 exist; correct?</p> <p>7 A. Correct. But also it could be that some of</p> <p>8 those Strikeforce fighters are the ones getting</p> <p>9 fights in the UFC, and it might be a UFC fighter not</p> <p>10 getting the fight.</p> <p>11 Q. Okay.</p> <p>12 MR. CRAMER: Like to have the next</p> <p>13 document marked as Silva Exhibit 21.</p> <p>14 (Silva Deposition Exhibit 21 marked for</p> <p>15 identification.)</p> <p>16 Q. Silva 21, I believe the Bates number got cut</p> <p>17 off a little bit, but my understanding is the Bates</p> <p>18 number is COX-0041416. I believe this was produced</p> <p>19 to us by Monte Cox.</p> <p>20 A. Uh-huh.</p> <p>21 Q. Who is Monte Cox?</p> <p>22 A. He's an MMA manager.</p> <p>23 Q. You know who he is?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And this is a March 2013 e-mail --</p>	<p style="text-align: right;">248</p> <p>1 SILVA</p> <p>2 cut a hundred guys."</p> <p>3 What did you mean by that?</p> <p>4 A. You have to keep the roster at a manageable</p> <p>5 number, and it can be hard to predict. It</p> <p>6 fluctuates. And there's times that if you had an</p> <p>7 acquisition where you had one of these times where</p> <p>8 everybody seemed to be coming back at once, you just</p> <p>9 realize, all right, well, this -- we've got to get</p> <p>10 this under control.</p> <p>11 Q. And at this time, in March of 2013, you had</p> <p>12 in the -- in the range of a hundred guys too many on</p> <p>13 your roster; is that right?</p> <p>14 A. Somewhere in that range, yes.</p> <p>15 Q. Do you know whether you cut those guys?</p> <p>16 A. I'm sure eventually. Guys are cut after</p> <p>17 most shows.</p> <p>18 Q. After they lose?</p> <p>19 A. Yes. Usually multiple times.</p> <p>20 Q. So if somebody loses multiple times, you --</p> <p>21 you tend to cut them?</p> <p>22 A. Correct. Because you can't bring somebody</p> <p>23 new in until somebody old goes.</p> <p>24 Q. So at least as of March of 2013, you still</p> <p>25 had too many fighters under contract; is that right?</p>
<p style="text-align: right;">247</p> <p>1 SILVA</p> <p>2 series of e-mails, two e-mails between you and</p> <p>3 Mr. Cox.</p> <p>4 So Mr. Cox says to you on March 6, 2013:</p> <p>5 "Just a reminder that Joe Doerksen lives in</p> <p>6 Winnipeg" -- excuse me -- "2 of his last 4 fights</p> <p>7 were nominated for fights of the year in Canada and</p> <p>8 he won them both, over Luigi Fioravanti and Kalib</p> <p>9 Starnes. He is 49 and 16, won 3 of 4."</p> <p>10 And you respond: "No space to bring in</p> <p>11 locals. Have to cut hundred guys. Joe."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. What did you mean to convey to Mr. Cox here?</p> <p>15 A. For a lot of the managers, they see, and --</p> <p>16 and quite often it is a -- a benefit to get a fighter</p> <p>17 in if it's in their hometown. It's like, oh, it's --</p> <p>18 he's already there, he's got local fans, maybe we'll</p> <p>19 get some local press. So it -- it's a nice thing to</p> <p>20 do when you have the roster space to do it.</p> <p>21 As I was telling him, as nice as that might</p> <p>22 be, my main responsibility was I have all these</p> <p>23 fighters and -- and I need to get them fights rather</p> <p>24 than bring in somebody just to be a local attraction.</p> <p>25 Q. And you said: "I have no space. I have to</p>	<p style="text-align: right;">249</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. All right. Please turn to Exhibit 6, which</p> <p>4 is the text message compilation.</p> <p>5 MR. CRAMER: And before we do that, why</p> <p>6 don't we go take a break because we're running</p> <p>7 out of tape time.</p> <p>8 THE VIDEOGRAPHER: Off the record at 1:32.</p> <p>9 (Recess taken at 1:32 p.m., proceedings</p> <p>10 resumed at 1:38 p.m.)</p> <p>11 THE VIDEOGRAPHER: Here begins Media</p> <p>12 Number 4 in the video-recorded deposition of</p> <p>13 Joseph Silva. We're back on the record at</p> <p>14 1:38 p.m.</p> <p>15 BY MR. CRAMER:</p> <p>16 Q. All right. I would like to draw your</p> <p>17 attention to Exhibit 6, Silva Exhibit 6, page 24,</p> <p>18 which is the -- a compilation of texts, and have you</p> <p>19 look in particular at the text dated February 26th,</p> <p>20 2015, at 1:30.</p> <p>21 And there's a text that someone at [REDACTED]</p> <p>22 [REDACTED] sent to you saying: "Any ideas for Colby</p> <p>23 Covington?"</p> <p>24 And then you respond at 2:17: "Nothing yet</p> <p>25 for Cody. I have a backlog of guys who need fights</p>

<p style="text-align: right;">250</p> <p>1 SILVA</p> <p>2 at the moment but I'm working on it."</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. What were you -- do you recall who sent you</p> <p>6 that?</p> <p>7 A. That would be Brian Butler.</p> <p>8 Q. So Brian Butler said, "Any ideas for Colby</p> <p>9 Covington?"</p> <p>10 A. Yes.</p> <p>11 Q. Colby is a UFC fighter?</p> <p>12 A. Yes.</p> <p>13 Q. And you said nothing yet, you said you had a</p> <p>14 backlog; is that right?</p> <p>15 A. Yes.</p> <p>16 Q. And so it's fair to say that as of the date</p> <p>17 of this text in February of 2015, you still had a</p> <p>18 backlog of fighters; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. Do you recall when you were able to get</p> <p>21 Mr. Covington a fight?</p> <p>22 A. I don't recall. We have thousands of</p> <p>23 fights.</p> <p>24 Q. Right. Okay. Put that aside.</p> <p>25 MR. CRAMER: Like to mark the next</p>	<p style="text-align: right;">252</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. Do you recall who you were stating this to?</p> <p>4 A. I do not know.</p> <p>5 Q. But this is a text that you wrote?</p> <p>6 A. Yes.</p> <p>7 Q. And it's fair to say that as of</p> <p>8 February 27th, 2015, you had too many guys under</p> <p>9 contract to get them fights?</p> <p>10 A. No.</p> <p>11 Q. What were you saying here?</p> <p>12 A. What -- from looking at the context of this</p> <p>13 text, it would seem like they're requesting something</p> <p>14 very specific, and I'm saying, you're lucky to get a</p> <p>15 fight at all. It -- it could be done, but when</p> <p>16 people go, I want to fight this guy on this date and</p> <p>17 this place, it's like, look, I got tons of fighters</p> <p>18 I've got to get fights. You're lucky to get a fight</p> <p>19 at all, let alone on this very specific thing you're</p> <p>20 asking.</p> <p>21 Q. I see. So someone's saying I want to fight</p> <p>22 so and so on -- in such and such event, and you're</p> <p>23 like, look, I -- I have enough trouble giving the</p> <p>24 amount of people I have under contract fights at</p> <p>25 all --</p>
<p style="text-align: right;">251</p> <p>1 SILVA</p> <p>2 document as Silva Exhibit 22.</p> <p>3 (Silva Deposition Exhibit 22 marked for</p> <p>4 identification.)</p> <p>5 Q. Silva 22 bears the Bates number</p> <p>6 TPS0021184.00001, it's a one-page series of two</p> <p>7 e-mails. This is a March 2013 e-mail from you --</p> <p>8 A. I -- I think this is a text --</p> <p>9 MR. MADDEN: It's -- we've covered that.</p> <p>10 MR. CRAMER: Oh, I'm sorry. I already</p> <p>11 covered that.</p> <p>12 MR. MADDEN: That's the last one.</p> <p>13 MR. CRAMER: I meant 113. That's the last</p> <p>14 one. Sorry. I had a stroke there. I'm back.</p> <p>15 Q. So this is Silva --</p> <p>16 MR. MADDEN: 22.</p> <p>17 Q. -- 22. Silva 22. All right. This is a --</p> <p>18 a text message, Silva 22. It bears the Bates number</p> <p>19 ZFL-1879488. This is the way it was produced to us</p> <p>20 by Zuffa. It's dated February 27, 2015. And it's</p> <p>21 from, I believe, you to [REDACTED], and it says: "Right now</p> <p>22 people are lucky to get a fight at all. I have 585</p> <p>23 guys under contract and now they all want to fight at</p> <p>24 the same time."</p> <p>25 Do you see that?</p>	<p style="text-align: right;">253</p> <p>1 SILVA</p> <p>2 A. Right.</p> <p>3 Q. -- let alone giving you the specific you --</p> <p>4 A. And it --</p> <p>5 Q. -- request that you want?</p> <p>6 A. And it's not an unusual request, because</p> <p>7 what would happen is, say a fighter maybe has a</p> <p>8 training partner who has a fight on a particular</p> <p>9 card, so it would be, oh, it would be nice if we</p> <p>10 could travel together. Like, I get that, but I got a</p> <p>11 lot of guys that I got to get to, and your training</p> <p>12 partner fought more recent -- you fought more</p> <p>13 recently than your training partner did, so I need to</p> <p>14 get somebody else in.</p> <p>15 Q. I see. So it's fair to say that as of</p> <p>16 February 2015, you still had a -- an issue with</p> <p>17 having a glut of fighters under contract?</p> <p>18 MR. ISAACSON: Objection to form.</p> <p>19 Q. You were still having trouble getting</p> <p>20 fighters fights on a regular basis?</p> <p>21 A. Yes, at --</p> <p>22 MR. ISAACSON: Objection to form.</p> <p>23 A. -- at any time that they might -- there</p> <p>24 might be -- it's like, I can get you a fight but it's</p> <p>25 going to be this date, this place, and that might not</p>

<p style="text-align: right;">254</p> <p>1 SILVA</p> <p>2 always be what they wanted.</p> <p>3 But if we were not able to get people</p> <p>4 fights, we would have breached contracts, which I</p> <p>5 don't believe we ever did.</p> <p>6 So it would be done, but I had the</p> <p>7 frustration that I was always running around doing my</p> <p>8 best to make sure everybody did get their fights, but</p> <p>9 it was certainly a challenge.</p> <p>10 Q. What is your understanding of -- of what the</p> <p>11 contract requires in terms of how many fights you</p> <p>12 needed to offer them per year?</p> <p>13 A. It would depend on the contract. There was</p> <p>14 four-fight contracts. There was six-fight contracts.</p> <p>15 Q. So if it's a four-fight contract, what is</p> <p>16 your understanding of what the contract requires as</p> <p>17 to how many fights that person is supposed to have</p> <p>18 per year?</p> <p>19 A. I believe also that they -- they changed</p> <p>20 throughout the years what the length of the contract</p> <p>21 was.</p> <p>22 Q. So --</p> <p>23 A. But I know for me, what I liked, the target</p> <p>24 that I was shooting for, just for me personally, was</p> <p>25 try to get them fighting once every four months.</p>	<p style="text-align: right;">256</p> <p>1 SILVA</p> <p>2 order to comply with that contract, Zuffa needed to</p> <p>3 give at least the offer of four fights during that</p> <p>4 30-month period?</p> <p>5 A. Unless it was extended by injury.</p> <p>6 Q. Right. But, yes, the answer is yes, unless</p> <p>7 there was an extended?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. But still here in February of 2015</p> <p>10 you were saying some people are lucky to get a fight</p> <p>11 at all; is that right?</p> <p>12 A. Yes.</p> <p>13 Q. And so you were struggling to try to comply</p> <p>14 with what you saw as the requirements of the</p> <p>15 contracts; is that right?</p> <p>16 A. I always struggle with it because it</p> <p>17 mattered to me. I could not be dismissive of it. If</p> <p>18 you're asking me to fight, I feel that pressure to</p> <p>19 get you a fight. And, yeah, there's a lot of times</p> <p>20 it was challenging, especially because it would come</p> <p>21 out of the blue.</p> <p>22 Sometimes you have fighters, like no, I</p> <p>23 absolutely can't fight, I'm injured; they're like no,</p> <p>24 I'm healed and I want to fight tomorrow. You would</p> <p>25 figure you would be notified, hey, I'm coming off</p>
<p style="text-align: right;">255</p> <p>1 SILVA</p> <p>2 Q. Okay. And is it your -- so -- so the</p> <p>3 contracts denoted the term both in number of fights</p> <p>4 and number of months; right?</p> <p>5 A. Yes.</p> <p>6 Q. And was it your understanding that when a</p> <p>7 contract denoted a term in that way, say, four fights</p> <p>8 in 30 months, it was your understanding that they</p> <p>9 were supposed to be -- have -- get those four fights</p> <p>10 over that 30-month period?</p> <p>11 A. Yes.</p> <p>12 Q. So that, is it your understanding that it</p> <p>13 would have violated the contract denoted that way, to</p> <p>14 not offer four fights during that 30-month period?</p> <p>15 MR. ISAACSON: Objection to form.</p> <p>16 A. Yeah, as long as there's no extenuating</p> <p>17 circumstances, like where they said that they</p> <p>18 couldn't fight, they were injured, they refused to</p> <p>19 fight, they didn't like that opponent. It's like,</p> <p>20 all right, well, I tried to get you a fight --</p> <p>21 Q. Right.</p> <p>22 A. -- you're just choosing not to.</p> <p>23 Q. So your interpretation was that you had to</p> <p>24 at least offer the fighter four -- for a four-fight,</p> <p>25 30-month contract, it was your understanding that in</p>	<p style="text-align: right;">257</p> <p>1 SILVA</p> <p>2 injury, I'm going in training, can I get a fight, you</p> <p>3 know, two months from now. Sure, I'll keep your</p> <p>4 thing. But if you go, I need to fight tomorrow, it's</p> <p>5 like, all tomorrow's cards are -- are done right now,</p> <p>6 I can look to the future. But I -- I tried very hard</p> <p>7 to -- to stay on top of that.</p> <p>8 Q. So just from the last series of e-mails and</p> <p>9 texts, I'm -- is it fair to say that at least from</p> <p>10 2010 to 2015 you had been complaining to managers and</p> <p>11 fighters and others that you had more fighters under</p> <p>12 contract than you had fights to give them?</p> <p>13 MR. ISAACSON: Objection to form.</p> <p>14 Q. Is that fair?</p> <p>15 A. Yeah. To do ideally, I would say, because</p> <p>16 where I'm trying to explain it to them, it's not --</p> <p>17 obviously we eventually got those people fights. But</p> <p>18 it's not that you necessarily had them all plotted</p> <p>19 out. You needed to wait on opportunities.</p> <p>20 Now, there are -- there is a high injury</p> <p>21 rate in this sport in preparation for it, so</p> <p>22 opportunities did come up quite often and I was able</p> <p>23 to use those guys sooner than I or they expected, but</p> <p>24 until that spot came up, I didn't -- I couldn't --</p> <p>25 all I could tell them is, like, I'm looking, I'm</p>

<p style="text-align: right;">258</p> <p>1 SILVA</p> <p>2 working on it, I'm trying. And it would usually work</p> <p>3 out, but it didn't mean that it -- it -- it</p> <p>4 constantly had to be stood on top of, to keep under</p> <p>5 control.</p> <p>6 Q. Okay. Now, Zuffa's told us that one of your</p> <p>7 responsibilities while you were -- you were at UFC</p> <p>8 was to authorize and approve the terms to be included</p> <p>9 in any UFC fighter contract. Is that accurate?</p> <p>10 A. I think if they're saying what the purse</p> <p>11 was, maybe what the number of fights were, like that.</p> <p>12 But as not as far as any legalese. I'm not a lawyer.</p> <p>13 Q. They said you were responsible for or with</p> <p>14 primary authority regarding individuals authorized to</p> <p>15 approve the terms to be included in any UFC fighter</p> <p>16 contracts.</p> <p>17 Would you say that you were authorized to</p> <p>18 approve the terms to be included in any UFC fighter</p> <p>19 contracts?</p> <p>20 A. I don't understand the wording.</p> <p>21 Q. Okay.</p> <p>22 A. The only -- I never changed anything about</p> <p>23 the contract other than this is how much it's for,</p> <p>24 this is how many fights it's for. Anything else, any</p> <p>25 change that needed to be made, had to go through</p>	<p style="text-align: right;">260</p> <p>1 SILVA</p> <p>2 this is something that Zuffa has told us, "Since 2001</p> <p>3 Zuffa's practice has been to use a standard agreement</p> <p>4 as a base in its negotiations with athletes.</p> <p>5 Periodically Zuffa reviews the standard agreement to</p> <p>6 determine whether it is necessary to clarify the</p> <p>7 language in the agreement and to address business</p> <p>8 issues that have arisen."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 MR. ISAACSON: Objection to form.</p> <p>12 Q. Is that a fair description?</p> <p>13 A. Yes.</p> <p>14 Q. When it was time to present a fighter with a</p> <p>15 new promotional ancillary rights agreement, it's your</p> <p>16 understanding that the starting point would be</p> <p>17 whatever the contemporaneous version of the standard</p> <p>18 agreement that existed at the time, that's what would</p> <p>19 be given to the fighter; is that right?</p> <p>20 A. Would you rephrase?</p> <p>21 Q. So the -- Zuffa had a standard promotional</p> <p>22 and ancillary rights agreement --</p> <p>23 A. Yes.</p> <p>24 Q. -- that it would use to start negotiations</p> <p>25 with fighters; correct?</p>
<p style="text-align: right;">259</p> <p>1 SILVA</p> <p>2 legal.</p> <p>3 Q. Okay. They also said you were one of the</p> <p>4 individuals responsible for negotiating UFC fighter</p> <p>5 contracts. Is that right?</p> <p>6 A. Yes.</p> <p>7 Q. You were. Okay.</p> <p>8 So is it true that in order to fight a bout</p> <p>9 for the UFC, the fighter is required to sign what</p> <p>10 Zuffa called the exclusive promotional and ancillary</p> <p>11 rights agreement?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And as far as you're aware, every UFC</p> <p>14 fighter is required to sign one of those agreements</p> <p>15 in order to compete in the UFC?</p> <p>16 A. Yes.</p> <p>17 Q. Are you aware of any fighter that Zuffa has</p> <p>18 allowed to compete in the UFC without signing a</p> <p>19 promotional and ancillary rights agreement?</p> <p>20 A. Not that I'm aware of.</p> <p>21 Q. Is it fair to say that when -- that -- that</p> <p>22 the promotional and ancillary rights agreement was</p> <p>23 amended from time to time; is that right?</p> <p>24 A. Yes.</p> <p>25 Q. Would you also agree that since 2001 -- and</p>	<p style="text-align: right;">261</p> <p>1 SILVA</p> <p>2 A. I didn't negotiate with an agreement.</p> <p>3 Q. You would send -- you would send or have</p> <p>4 Ms. Long or someone else send the fighters an</p> <p>5 agreement at some point; correct?</p> <p>6 A. Right. Once we came to a deal. Then what</p> <p>7 would happen beyond that point didn't involve me.</p> <p>8 What I would do, for example, would be like, okay,</p> <p>9 I'll give you a new deal, I'll give you this much</p> <p>10 money, this much money, this much money, no, and they</p> <p>11 go yes or they go no, and if they said yes, then I'd</p> <p>12 send it to Tracy, she would send them the contract.</p> <p>13 Now, it's possible then, especially if they</p> <p>14 made any revisions, that a manager may review it and</p> <p>15 go, oh, wait, we don't agree with this thing, this</p> <p>16 change from there. It's like, speak with legal, work</p> <p>17 it out with them, because I didn't make those</p> <p>18 revisions.</p> <p>19 Q. Okay. So you would negotiate the financial</p> <p>20 terms?</p> <p>21 A. Yes.</p> <p>22 Q. And the term; correct?</p> <p>23 A. Yes.</p> <p>24 Q. And then hand it over to legal?</p> <p>25 A. Yes. Actually, not technically term, number</p>

<p style="text-align: right;">262</p> <p>1 SILVA</p> <p>2 of fights.</p> <p>3 Q. Number of fights.</p> <p>4 A. Because what the term was changed at</p> <p>5 different -- they're like, all right, well -- at one</p> <p>6 time this amount of fights equaled this much time,</p> <p>7 and then later on it was amended, but I had nothing</p> <p>8 to do with that amendment.</p> <p>9 Q. Okay. So you -- you negotiated number of</p> <p>10 fights --</p> <p>11 A. And salary.</p> <p>12 Q. -- and salary. And typically it was in the</p> <p>13 form of win and show?</p> <p>14 A. Yes.</p> <p>15 Q. Certain amount if you won, a certain amount</p> <p>16 to show up?</p> <p>17 A. Yes.</p> <p>18 Q. Is it fair to say that while you were</p> <p>19 negotiating with fighters, you understood that the</p> <p>20 promotional and ancillary rights agreements had</p> <p>21 certain standard provisions that the fighters were</p> <p>22 expected to agree to?</p> <p>23 A. Yes.</p> <p>24 Q. Okay.</p> <p>25 MR. CRAMER: Like to mark as Silva</p>	<p style="text-align: right;">264</p> <p>1 SILVA</p> <p>2 changes. I replied asking what changes. We don't</p> <p>3 provide word docs. He hasn't answered."</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. Was it the policy of Zuffa not to provide a</p> <p>7 Word or electronic version that could be changed of</p> <p>8 its standard form contracts?</p> <p>9 A. I don't believe Tracy would know that, and</p> <p>10 she was saying that she did not.</p> <p>11 One -- in responding to it, the thing that I</p> <p>12 was pointing out is, people have had the contracts</p> <p>13 amended, but they do it going through it with our</p> <p>14 lawyers. With -- I think they are trying to avoid,</p> <p>15 which has happened, is that people crack the</p> <p>16 encrypted and made changes hoping to slip it through.</p> <p>17 Q. Oh.</p> <p>18 A. Not like we're negotiating changes with you,</p> <p>19 it's like we made changes to this and -- and we're</p> <p>20 just hoping you're not going to notice, and we now</p> <p>21 get 20 plane tickets.</p> <p>22 So it -- that's what we're telling them.</p> <p>23 It's like, if you have issues, talk to our legal</p> <p>24 about it, maybe that can be amended, but no, not on</p> <p>25 your own, you can't change everything and we don't</p>
<p style="text-align: right;">263</p> <p>1 SILVA</p> <p>2 Exhibit 23 the next document.</p> <p>3 (Silva Deposition Exhibit 23 marked for</p> <p>4 identification.)</p> <p>5 Q. Okay. Silva 23 is a two-page series of</p> <p>6 e-mails, it bears the Bates range ZFL-0818873 through</p> <p>7 874. And this is a March 2015 e-mail exchange, and</p> <p>8 the subject is Ryan Jimmo, J-I-M-M-O.</p> <p>9 A. Yes.</p> <p>10 Q. Ryan Jimmo was a UFC fighter; is that right?</p> <p>11 A. Yes.</p> <p>12 Q. All right. In the middle of the page</p> <p>13 there's an e-mail from you that says -- one that is</p> <p>14 dated March 4th, 2015 at 6:05 p.m.</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. It says: "Did he sign his new promo?"</p> <p>18 And -- and is it fair that what you were</p> <p>19 saying in this e-mail is, did he sign his new</p> <p>20 promotional and ancillary rights agreement; is that</p> <p>21 right?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And then Ms. Long responds to you on</p> <p>24 March 4th at 10:55 a.m.: "No. And he emailed me</p> <p>25 this morning asking for word version to make some</p>	<p style="text-align: right;">265</p> <p>1 SILVA</p> <p>2 know what you have changed.</p> <p>3 Q. Okay. But then you say on March 4th, 2015:</p> <p>4 "You can't just make changes to the contract."</p> <p>5 Do you see that?</p> <p>6 A. Yes. Yes.</p> <p>7 Q. And that was generally your understanding of</p> <p>8 the policy, that fighters can't just willy-nilly make</p> <p>9 changes to the standard contract; right?</p> <p>10 A. Correct. Especially if we don't know what</p> <p>11 those changes are. If they didn't redline them. If</p> <p>12 they've been there, it's just like you can't just</p> <p>13 rewrite it.</p> <p>14 MR. CRAMER: All right. I'd like to mark</p> <p>15 as the next document Silva Exhibit 24.</p> <p>16 (Silva Deposition Exhibit 24 marked for</p> <p>17 identification.)</p> <p>18 BY MR. CRAMER:</p> <p>19 Q. Silva 24 is a series of e-mails bearing the</p> <p>20 Bates range ZFL-1960998 through 1961001. Please look</p> <p>21 at the bottom of the second page, at the e-mail from</p> <p>22 Tamira Cason to Tracy Hyman.</p> <p>23 Who is Tracy -- Tamira Cason?</p> <p>24 A. I do not know.</p> <p>25 Q. And Tracy Hyman is Tracy Long?</p>

<p style="text-align: right;">270</p> <p>1 SILVA</p> <p>2 Q. Do you know what the "in perpetuity</p> <p>3 language" Mr. Mersch is referring to here is?</p> <p>4 A. I believe it concerns using footage of the</p> <p>5 fighter, that there would not be a limit in time;</p> <p>6 that if it's in the UFC library, that the UFC could</p> <p>7 use that footage at any time.</p> <p>8 Q. And ancillary rights are the rights to use,</p> <p>9 display, reproduce, et cetera, the name, image, or</p> <p>10 likeness of the fighter?</p> <p>11 A. Yes.</p> <p>12 Q. And what do you think Mr. Mersch meant by</p> <p>13 saying that the in perpetuity language is one of the</p> <p>14 most important provisions in the contract?</p> <p>15 A. Well, it would be hurtful for the promotion</p> <p>16 not to be able to show past fights. We use -- those</p> <p>17 past fights help to promote future fights.</p> <p>18 Q. Explain that. How does a past fight help to</p> <p>19 promote future fights?</p> <p>20 A. Say Rashad Evans fights Jon Jones. Rashad</p> <p>21 Evans is no longer with the company, but Jon Jones is</p> <p>22 going to fight again, you'd want to be able to show</p> <p>23 footage from that fight to help promote the Jon Jones</p> <p>24 fight.</p> <p>25 Q. Why? Why?</p>	<p style="text-align: right;">272</p> <p>1 SILVA</p> <p>2 A. I'm not sure --</p> <p>3 Q. So, for example, is it your understanding</p> <p>4 that the ancillary rights provision of this agreement</p> <p>5 in perpetuity that we have just been talking about</p> <p>6 would not only give Zuffa the right to use prior</p> <p>7 video footage when it wanted to, but it also would</p> <p>8 give Zuffa the right to stop someone else, like that</p> <p>9 fighter, from using that video if it fought for</p> <p>10 another promotion; is that right?</p> <p>11 A. Yes.</p> <p>12 MR. ISAACSON: Objection to form.</p> <p>13 Q. And that was important to Zuffa too;</p> <p>14 correct?</p> <p>15 A. Well, we did --</p> <p>16 MR. ISAACSON: Objection to form.</p> <p>17 A. -- feel that that was their footage, it was</p> <p>18 from their promotion, so yes, it was important for</p> <p>19 them to have control over how it was used.</p> <p>20 Q. And one reason for that is that Zuffa did</p> <p>21 not want a fighter who once fought in the UFC and now</p> <p>22 is fighting for another promotion to be able to</p> <p>23 promote himself and the new MMA promotion with UFC</p> <p>24 video; correct?</p> <p>25 MR. ISAACSON: Objection to form.</p>
<p style="text-align: right;">271</p> <p>1 SILVA</p> <p>2 A. Why?</p> <p>3 Q. Yeah. Why?</p> <p>4 Why would you want to show prior footage of</p> <p>5 a fighter in order to promote the fight?</p> <p>6 A. Because that's how you promote a fight. You</p> <p>7 want to establish what this person has accomplished.</p> <p>8 Q. And an important way to establish that is to</p> <p>9 show video of that fighter fighting previously;</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. And Zuffa felt it was very important to be</p> <p>13 able to promote its fighters and its fights by using</p> <p>14 video of fighters' prior fights; is that right?</p> <p>15 A. Yes. There's times that we had to not do</p> <p>16 that because it wasn't available, but it would be</p> <p>17 preferable to have it, for sure.</p> <p>18 Q. And is it your understanding that Zuffa,</p> <p>19 through this contract, not only obtained for itself</p> <p>20 in perpetuity, forever, the right to these ancillary</p> <p>21 rights, but part of that retention of rights was to</p> <p>22 allow Zuffa to have that exclusively, in other words,</p> <p>23 that no one else could have those rights? Is that</p> <p>24 your understanding too?</p> <p>25 MR. ISAACSON: Objection to form.</p>	<p style="text-align: right;">273</p> <p>1 SILVA</p> <p>2 A. It's more that -- I mean, another promotion</p> <p>3 just can't use our footage. It's not their</p> <p>4 promotion's footage. People have come from the UFC</p> <p>5 and fought in other shows and they certainly mention</p> <p>6 that and it's used that, oh, this was former Rory</p> <p>7 MacDonald fighting in Bellator now, they very much</p> <p>8 use that, but not the footage. The footage is the</p> <p>9 UFC's footage to show and -- and to use. So I think</p> <p>10 it's outside just for promotion uses.</p> <p>11 Q. Okay. Are you aware that Zuffa gets video</p> <p>12 footage from fighters who have the -- showing video</p> <p>13 of their fights at other promotions so that Zuffa can</p> <p>14 use and UFC can use to promote that fighter when</p> <p>15 they're in the UFC?</p> <p>16 A. That wouldn't be through the fighters. That</p> <p>17 would have to be through the promotions themselves.</p> <p>18 Q. But are you aware that Zuffa's contract</p> <p>19 provides the -- Zuffa's standard contract provides</p> <p>20 that Zuffa has the right to, if the fighter owns</p> <p>21 that -- that video, that Zuffa would have the right</p> <p>22 to use the fighter's prior videos at other MMA</p> <p>23 organizations to promote --</p> <p>24 A. I have no idea.</p> <p>25 Q. You -- you've never been involved in</p>

<p style="text-align: right;">274</p> <p>1 SILVA</p> <p>2 promoting a fight of a fighter who just came over</p> <p>3 from Bellator and using footage of that fighter's</p> <p>4 prior fights in another MMA promotion?</p> <p>5 A. I don't think we've ever used Bellator</p> <p>6 footage. I don't think legally we could.</p> <p>7 Q. What about World Series of Fighting?</p> <p>8 A. If World Series of Fighting chose to give</p> <p>9 it -- that to us. But that doesn't belong to the</p> <p>10 fighter, that belongs to World Series of Fighting, is</p> <p>11 my understanding. I don't know if somebody has some</p> <p>12 weird deal where they would own their own footage, I</p> <p>13 don't think that's the case.</p> <p>14 Q. Okay. Do you know what the champions clause</p> <p>15 is?</p> <p>16 A. Yes.</p> <p>17 Q. What is it?</p> <p>18 A. If you are the champion and you fought your</p> <p>19 last fight under contract, you have an exclusive</p> <p>20 negotiation period, and if you do not come to a deal,</p> <p>21 then there is a period of, I believe it's a year,</p> <p>22 before you could just leave.</p> <p>23 Q. So if you're a champion, the Zuffa contract</p> <p>24 provides that Zuffa has a one-year exclusivity on you</p> <p>25 after the date the fighter becomes a champion; is</p>	<p style="text-align: right;">276</p> <p>1 SILVA</p> <p>2 provision?</p> <p>3 A. Because they're trying to fulfill the</p> <p>4 contract. They're trying to give the fighter as many</p> <p>5 fights as they said they would. But they need the</p> <p>6 time to do it. And if a fighter is rejecting fights,</p> <p>7 we don't have the time to do that.</p> <p>8 Q. You're also aware that Zuffa has a provision</p> <p>9 called the retirement clause, that sometimes it calls</p> <p>10 the retirement clause?</p> <p>11 A. Yes.</p> <p>12 Q. And that provision provides that if a</p> <p>13 fighter says that he or she retires during the term</p> <p>14 of their Zuffa contract, that their contract is</p> <p>15 suspended, and if they unretire, the contract picks</p> <p>16 up essentially from the point of retirement; is that</p> <p>17 right?</p> <p>18 A. Yes.</p> <p>19 Q. Why does Zuffa want that provision?</p> <p>20 A. I do not know.</p> <p>21 Q. Have you ever dealt -- strike that.</p> <p>22 And I think we also talked about provisions</p> <p>23 in Zuffa's contract that relate to the right of first</p> <p>24 negotiation and right to match?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">275</p> <p>1 SILVA</p> <p>2 that right?</p> <p>3 A. That's my understanding.</p> <p>4 Q. Do you know why Zuffa wants that?</p> <p>5 A. I believe they have invested in anybody</p> <p>6 they've put into a championship fight and them being</p> <p>7 a champion, and they're looking for a return on their</p> <p>8 investment.</p> <p>9 Q. Okay. Zuffa also has, you're aware, a</p> <p>10 provision that allows Zuffa to extend the term of a</p> <p>11 contract if a fighter tells Zuffa that they are</p> <p>12 unwilling or unable to fight; is that right?</p> <p>13 A. Yes.</p> <p>14 Q. And that provision allows Zuffa to extend</p> <p>15 the term of a contract for how long, is your</p> <p>16 understanding?</p> <p>17 A. I would have to look. And I'm sure it may</p> <p>18 have changed through the years.</p> <p>19 Q. Does it sound right that it's something like</p> <p>20 6 months or for however long that fighter is unable</p> <p>21 to fight?</p> <p>22 MR. ISAACSON: Objection to form.</p> <p>23 Q. Is that right?</p> <p>24 A. That's possible.</p> <p>25 Q. Okay. And why does Zuffa want that</p>	<p style="text-align: right;">277</p> <p>1 SILVA</p> <p>2 Q. Right? There's a 90-day period after the</p> <p>3 term of the contract that Zuffa has the exclusive</p> <p>4 negotiating right.</p> <p>5 A. Yes.</p> <p>6 Q. And then there's a year or 12-month period</p> <p>7 where Zuffa has the right to match?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And all of the provisions that I just</p> <p>10 described, would you consider standard terms in</p> <p>11 Zuffa's contracts?</p> <p>12 A. Yes.</p> <p>13 Q. They're in just about every contract that</p> <p>14 Zuffa has with fighters, to your knowledge?</p> <p>15 A. To my knowledge.</p> <p>16 MR. CRAMER: I'd like to mark the next</p> <p>17 document as Silva 25. Thank you.</p> <p>18 (Silva Deposition Exhibit 25 marked for</p> <p>19 identification.)</p> <p>20 Q. Silva Exhibit 25 is a February 2011 e-mail</p> <p>21 chain between Mersch and some others, including</p> <p>22 representatives of fighter Jorge Santiago, and it</p> <p>23 bears the Bates range ZFL-2134847 through 849.</p> <p>24 The very top of the page, Mersch -- first of</p> <p>25 all, who is Mr. Tabachnik, do you know? He's a</p>

<p style="text-align: right;">278</p> <p>1 SILVA</p> <p>2 lawyer?</p> <p>3 A. Yeah, I believe he's a lawyer.</p> <p>4 Q. Okay.</p> <p>5 A. I accident -- I got two copies of this.</p> <p>6 Q. Oh. And who is Jorge Luiz Santiago</p> <p>7 Rodrigues?</p> <p>8 A. He is an MMA fighter.</p> <p>9 Q. Okay. And Mersch says to Tabachnik at the</p> <p>10 top: "With all due respect, we're not changing our</p> <p>11 standard agreements for Mr. Santiago. If</p> <p>12 Mr. Santiago doesn't want to sign them as is, just</p> <p>13 let us know and I will inform Joe Silva and Dana that</p> <p>14 he is not interested in competing in the UFC."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Do you recall learning about the interchange</p> <p>18 between Mr. Rodrigues and Mr. Mersch about</p> <p>19 Rodrigues's contract?</p> <p>20 A. I don't recall.</p> <p>21 Q. Okay. Do you know whether Mr. Rodrigues</p> <p>22 ultimately signed his contract?</p> <p>23 A. Honestly, I don't -- I don't remember.</p> <p>24 Q. Yeah, that's fine.</p> <p>25 And is it fair to say that Mr. Mersch's</p>	<p style="text-align: right;">280</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Now turn to the top of page 2. The</p> <p>4 top of page 2 is the continuation of an e-mail from</p> <p>5 Mr. Alameddine to Mr. Silva, to you, which he sent on</p> <p>6 Sunday, July 26, 2009, at 4:06 p.m.</p> <p>7 And at the top of page 2, in the first full</p> <p>8 paragraph, he's -- Wad says to you: "Knowing that</p> <p>9 UFC contracts stipulate nonnegotiable worldwide</p> <p>10 exclusivity, I am keen to explore aspects of a UFC</p> <p>11 deal that are more flexible."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Do you recall this request of his?</p> <p>15 A. I don't recall it.</p> <p>16 Q. Okay. Is it -- is -- was Wad generally</p> <p>17 correct that UFC contracts stipulate nonnegotiable</p> <p>18 worldwide exclusivity for the UFC?</p> <p>19 A. Yes.</p> <p>20 Q. All right. In the next paragraph Wad says:</p> <p>21 "Given he'd now be ineligible to fight for other</p> <p>22 organizations anywhere in the world like Dream,</p> <p>23 Sengoku, Strikeforce, M-1 Global and MFC, who are all</p> <p>24 interested in him; Paul would have his normally high</p> <p>25 level of activity halved from 6 fights a year to just</p>
<p style="text-align: right;">279</p> <p>1 SILVA</p> <p>2 position with respect to the standard agreements is</p> <p>3 your understanding of what the UFC's general position</p> <p>4 was, which was they don't tend to change their</p> <p>5 standard agreements with the standard terms we just</p> <p>6 talked about for fighters; is that right?</p> <p>7 A. Yes.</p> <p>8 Q. You can put that document aside.</p> <p>9 MR. CRAMER: Thank you. Like to mark the</p> <p>10 next document as Silva 26.</p> <p>11 (Silva Deposition Exhibit 26 marked for</p> <p>12 identification.)</p> <p>13 Q. Silva 26 is a series of e-mails, bears the</p> <p>14 Bates range ZFL-2287140 through 144. And this at the</p> <p>15 top is an e-mail from you to Wad Alameddine. Who is</p> <p>16 he?</p> <p>17 A. He's an MMA manager.</p> <p>18 Q. And is it fair to say that you sent the top</p> <p>19 e-mail to Mr. Alameddine on Sunday, July 26, 2009; is</p> <p>20 that right?</p> <p>21 A. Yes.</p> <p>22 Q. And this is regarding Paul Daley; is that</p> <p>23 right?</p> <p>24 A. Yes.</p> <p>25 Q. And Paul Daley was an MMA fighter?</p>	<p style="text-align: right;">281</p> <p>1 SILVA</p> <p>2 3."</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. It's fair that -- to say that Dream and</p> <p>6 Sengoku and Strikeforce and M-1 Global and MFC are</p> <p>7 all MMA promotions?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And -- and Wad is accurately</p> <p>10 describing the situation that the fighter would be in</p> <p>11 is -- if he signed with the UFC, that would be he</p> <p>12 couldn't fight for any of these other entities;</p> <p>13 correct?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. And is it also fair to say that in</p> <p>16 general his activity would be halved from the six</p> <p>17 fights a year that he likes to have to just three?</p> <p>18 A. No, I would dispute that. I would have to</p> <p>19 go back to see if he was actually fighting that</p> <p>20 actively. But we have also had fighters who wanted</p> <p>21 to be active, like Cowboy Cerrone, fight six times in</p> <p>22 a year.</p> <p>23 Q. Okay. All right. If you turn to the first</p> <p>24 page, there's an e-mail from Wad to you dated Sunday,</p> <p>25 July 26, 2009, and he says: "So are the exclusivity</p>

<p style="text-align: right;">282</p> <p>1 SILVA</p> <p>2 terms the same?" And he's asking for some</p> <p>3 alternative terms.</p> <p>4 And you say, "We don't. The UFC deal is</p> <p>5 exclusive."</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. And that's accurately describing the UFC</p> <p>9 deal?</p> <p>10 A. Yes.</p> <p>11 Q. And you say: "I am offering the same money</p> <p>12 as Affliction which is more than I would have offered</p> <p>13 if he was not under that deal but UFC contracts are</p> <p>14 exclusive."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Explain to me what you mean by offering him</p> <p>18 more because he was previously under an Affliction</p> <p>19 deal.</p> <p>20 A. Because they're able to bring me -- they're</p> <p>21 going, look, this is what we were offered, this is</p> <p>22 the deal we have, so I felt that gave him some</p> <p>23 leverage. It was like, all right, somebody is</p> <p>24 willing to pay you that much, all right, I'll -- I'll</p> <p>25 match that.</p>	<p style="text-align: right;">284</p> <p>1 SILVA</p> <p>2 A. Well, UFC had a different, conflicting video</p> <p>3 game deal.</p> <p>4 Q. What was the UFC's conflicting video game</p> <p>5 deal?</p> <p>6 A. I believe it was -- at the time, it was --</p> <p>7 we just had our own -- we had a video game deal with</p> <p>8 another video game manufacturer. It wasn't EA at the</p> <p>9 time.</p> <p>10 Q. EA Sports is a video game company?</p> <p>11 A. Correct.</p> <p>12 Q. And it was trying to put out a video game of</p> <p>13 MMA?</p> <p>14 A. Yes.</p> <p>15 Q. And the UFC had a competing contract with</p> <p>16 another video game company?</p> <p>17 A. Correct.</p> <p>18 Q. And it was UFC's policy not to sign fighters</p> <p>19 who had signed deals with EA; is that right?</p> <p>20 A. Well, there was just an issue of how that</p> <p>21 conflict would be resolved, which was not anything</p> <p>22 that I would deal with, so I was just told to, you</p> <p>23 know, make sure that that conflict wasn't there.</p> <p>24 Q. You were told to make sure not to sign</p> <p>25 fighters who had signed the -- up -- signed up with</p>
<p style="text-align: right;">283</p> <p>1 SILVA</p> <p>2 Q. So if a fighter has a -- an existing deal or</p> <p>3 a proposed deal with another MMA promotion, that</p> <p>4 fighter -- that gives that fighter a bit of leverage</p> <p>5 to negotiate a higher compensation level with the</p> <p>6 UFC; is that fair?</p> <p>7 A. It can.</p> <p>8 Q. Okay. Now, if you look at the -- the next</p> <p>9 sentence, you say: "He cannot sign the EA deal if he</p> <p>10 ever wants to be in the UFC."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. What's that referring to?</p> <p>14 A. That's an Electronic Arts video game deal.</p> <p>15 Q. And that was not a deal that the UFC had</p> <p>16 struck with Electronic Arts; correct?</p> <p>17 A. Correct.</p> <p>18 Q. That was a deal -- who was that a deal</p> <p>19 between, do you know?</p> <p>20 A. I believe it was -- I don't know that it was</p> <p>21 any one organization, but that they were just taking</p> <p>22 fighters that were not UFC fighters.</p> <p>23 Q. And why was it that the -- and was it UFC's</p> <p>24 policy not to allow its fighters to enter into the EA</p> <p>25 deal?</p>	<p style="text-align: right;">285</p> <p>1 SILVA</p> <p>2 EA; is that right?</p> <p>3 A. Well, it was letting -- especially more was</p> <p>4 to let them know if they had not done a deal, it</p> <p>5 would be -- to come in the UFC and be under that</p> <p>6 video game contract. It's like you didn't want</p> <p>7 somebody who was coming in the UFC not knowing that</p> <p>8 it was a conflict.</p> <p>9 Q. I see. And who told you to tell the</p> <p>10 fighters not to sign EA deals if they want to be in</p> <p>11 the UFC?</p> <p>12 A. I'm sure it was somebody in legal, but I</p> <p>13 don't recall who.</p> <p>14 Q. Was it Epstein or Mersch?</p> <p>15 A. I don't recall.</p> <p>16 Q. Or Hendrick?</p> <p>17 A. I don't recall.</p> <p>18 Q. You don't recall. Okay.</p> <p>19 But you understood, as you -- it was your</p> <p>20 understanding that it was Zuffa's policy, as you</p> <p>21 expressed in the e-mail in 2009 to Mr. Alameddine,</p> <p>22 that fighters could not sign the EA deal if they ever</p> <p>23 want to be in the UFC; is that right?</p> <p>24 A. Yeah. I was under the impression it would</p> <p>25 cause a conflict.</p>

<p style="text-align: right;">286</p> <p>1 SILVA</p> <p>2 Q. All right. You can put that document aside.</p> <p>3 MR. CRAMER: Like to mark the next</p> <p>4 document as Silva 27.</p> <p>5 (Silva Deposition Exhibit 27 marked for</p> <p>6 identification.)</p> <p>7 Q. Silva 27 is a series of e-mails with the</p> <p>8 Bates range ZFL-2552141 through 2142. The e-mail at</p> <p>9 the top is from you to Mark Fischer and Sean Shelby,</p> <p>10 dated August 27, 2012.</p> <p>11 I would like to draw your attention first to</p> <p>12 the second page of the document. This is an e-mail</p> <p>13 from Mark Fischer to Mr. Silva and Shelby and cc'd to</p> <p>14 Marshall Zelaznik, Ryo Ishibashi, Dylan -- and Dylan</p> <p>15 Budd, and the subject is RUFF and One FC fighter</p> <p>16 contracts.</p> <p>17 What is RUFF?</p> <p>18 A. I don't think they exist, but they were a</p> <p>19 China-based MMA promotion.</p> <p>20 Q. They were trying to be an MMA promotion in</p> <p>21 or about August 2012; is that right?</p> <p>22 A. Sounds right.</p> <p>23 Q. Who is Mr. Fischer?</p> <p>24 A. Mark Fischer used to be head of our --</p> <p>25 (Interruption on PA system.)</p>	<p style="text-align: right;">288</p> <p>1 SILVA</p> <p>2 Q. At what time -- do you recall at what period</p> <p>3 he became the head of your Asian division?</p> <p>4 A. I don't. Yeah, I -- he not there for an</p> <p>5 extremely long time. So it would be somewhere in the</p> <p>6 vicinity of the date of this e-mail.</p> <p>7 Q. Okay. And RUFF and One FC were Asia-based</p> <p>8 MMA promotions, or they were trying to be MMA --</p> <p>9 A. Well, One FC still is.</p> <p>10 Q. Still is, right.</p> <p>11 And RUFF was trying to be?</p> <p>12 A. Yeah, it was one, but I don't -- I do not</p> <p>13 believe it still exists.</p> <p>14 Q. Okay. So Mr. Fischer, who was the head of</p> <p>15 the UFC's Asia division, in August 26 -- on August</p> <p>16 26th of 2012, writes to Mr. Silva and Shelby, and</p> <p>17 cc's some others, and says: "Hey guys, received a</p> <p>18 couple reports lately that these promotions are both</p> <p>19 trying to lock in fighters in this region to</p> <p>20 long-term contracts, given the competition for</p> <p>21 fighters (and they probably got wind or otherwise</p> <p>22 suspect UFC is moving toward local fight series as</p> <p>23 well)."</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">287</p> <p>1 SILVA</p> <p>2 A. It's apparently a very dramatic version.</p> <p>3 Q. We did this just to increase the drama.</p> <p>4 A. Wow.</p> <p>5 MR. CRAMER: Why don't we go off the</p> <p>6 record.</p> <p>7 THE VIDEOGRAPHER: Off the record at</p> <p>8 2:22 p.m.</p> <p>9 (Recess taken at 2:22 p.m., proceedings</p> <p>10 resumed at 2:28 p.m.)</p> <p>11 THE VIDEOGRAPHER: We're back on the</p> <p>12 record at 2:28.</p> <p>13 MR. CRAMER: So we went off the record</p> <p>14 because there was a musical interruption in</p> <p>15 the room, for the record, and now we're back</p> <p>16 on the record.</p> <p>17 Will the court reporter please remind me</p> <p>18 where we were, and read the last question and</p> <p>19 answer? Thank you.</p> <p>20 THE REPORTER: "Who is Mr. Fischer?"</p> <p>21 Answer: "Mark Fischer used to be head of</p> <p>22 our" --</p> <p>23 Q. Okay. So who is Mark -- Mr. Fischer?</p> <p>24 A. Mark Fischer was the head of our Asian</p> <p>25 division.</p>	<p style="text-align: right;">289</p> <p>1 SILVA</p> <p>2 Q. Do you know what he was referring to when he</p> <p>3 said that these promotions were trying to lock in</p> <p>4 fighters to long-term contracts?</p> <p>5 A. It was his opinion that in -- in the Asian</p> <p>6 market, that the local Asian promoters wanted to lock</p> <p>7 the -- all the fighters up to exclusive contracts.</p> <p>8 Q. To long-term exclusive contracts.</p> <p>9 And he says, just below that, the part where</p> <p>10 it references One FC --</p> <p>11 A. Uh-huh.</p> <p>12 Q. -- it says, "reportedly they now have</p> <p>13 'teams' of people running around Asia trying to lock</p> <p>14 up fighters to 3-year or 5-year contracts, to corner</p> <p>15 the market versus all comers (including us)."</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. And Mr. Fischer -- is it fair to say that</p> <p>19 Mr. Fischer assumed or was saying that three- or</p> <p>20 five-year contracts were long-term contracts?</p> <p>21 A. Yes.</p> <p>22 MR. ISAACSON: Objection to form.</p> <p>23 Q. Okay. And in what way -- I'm just trying to</p> <p>24 understand the theory here. How is it possible that</p> <p>25 by locking up local fighters to three- or five-year</p>

<p style="text-align: right;">290</p> <p>1 SILVA</p> <p>2 contracts that they could potentially corner the</p> <p>3 market versus other potential MMA promoters,</p> <p>4 including the UFC? What was his theory, if you</p> <p>5 understood it?</p> <p>6 MR. ISAACSON: Objection. Foundation.</p> <p>7 Calls for speculation.</p> <p>8 A. I feel that Mr. Fischer felt like Asia,</p> <p>9 which was a newer, younger market for MMA, that there</p> <p>10 was not but so much talent, and that the local</p> <p>11 promoters were trying to make that talent unavailable</p> <p>12 to anybody for many years.</p> <p>13 Q. And three to five years is a long time in a</p> <p>14 fighter's career; correct?</p> <p>15 MR. ISAACSON: Objection to form.</p> <p>16 A. Especially what was unusual about this was</p> <p>17 that almost nobody was established as any kind of</p> <p>18 star or long-term champion, that they were just</p> <p>19 signing kind of random guys to super long contracts.</p> <p>20 Not that it had a championship clause or anything</p> <p>21 like that, just anybody who looked any good at all to</p> <p>22 them, they were offering multiyear contracts.</p> <p>23 Q. And that -- because the talent pool there at</p> <p>24 that time was so shallow, that had the potential, or</p> <p>25 at least according to Mr. Fischer, of preventing</p>	<p style="text-align: right;">292</p> <p>1 SILVA</p> <p>2 I'm going to sign him up, and I would look at him,</p> <p>3 was like, I don't -- that's -- that's not something</p> <p>4 I'm concerned about.</p> <p>5 Q. But in your opinion in 2012, the Asian</p> <p>6 market was a relatively new -- new market?</p> <p>7 A. Well, in -- in a way, it -- parts of Asia</p> <p>8 were old, that you had Pride and K-1 were huge</p> <p>9 Japanese promotions, but because of a lot of issues</p> <p>10 they had with Yakuza involvement and -- and other</p> <p>11 issues, the popularity of MMA died out quite a bit in</p> <p>12 Japan, but there was other parts of Asia, like, say</p> <p>13 in China, where it was becoming kind of a newer</p> <p>14 thing.</p> <p>15 So Japan for a long time was considered a</p> <p>16 powerhouse in MMA but not so much other parts. Korea</p> <p>17 was newer. China was newer.</p> <p>18 Q. When you say "Yakuza involvement," Yakuza</p> <p>19 are Japanese mobsters, is that right, organized</p> <p>20 crime?</p> <p>21 A. Yeah. That was a scandal from back in the</p> <p>22 Pride days.</p> <p>23 Q. And is it fair to say that -- that the way</p> <p>24 you're describing it, MMA in Japan was kind of</p> <p>25 separate from MMA in China and separate from MMA in</p>
<p style="text-align: right;">291</p> <p>1 SILVA</p> <p>2 others from breaking into that market? Is that what</p> <p>3 he was thinking?</p> <p>4 A. That was his opinion.</p> <p>5 MR. ISAACSON: Objection to form.</p> <p>6 Q. And then he says: "So, it's probably</p> <p>7 incumbent on us to put the word out to all our</p> <p>8 contacts in Asia that we are also considering our own</p> <p>9 USA -- UFC Asia series, which would be the conduit to</p> <p>10 the 'big UFC,' so fighters should be very careful</p> <p>11 signing away their careers to others at this point."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. What did you interpret him to mean there</p> <p>15 when you got this e-mail?</p> <p>16 What -- what did you understand he was</p> <p>17 saying here about what the U -- he thinks the UFC</p> <p>18 should have done in response?</p> <p>19 MR. ISAACSON: Objection to form.</p> <p>20 A. Well, one, I didn't -- Mark Fischer did not</p> <p>21 come from MMA and I didn't think he understood it</p> <p>22 very well. And a lot of my correspondence is that I</p> <p>23 just disagreed with a lot of his assertions. It</p> <p>24 wasn't anything I was particularly worried about, but</p> <p>25 being new to -- he's like, oh, there's this guy and</p>	<p style="text-align: right;">293</p> <p>1 SILVA</p> <p>2 the Philippines?</p> <p>3 A. Most definitely.</p> <p>4 Q. In what way were they separate?</p> <p>5 A. They're different countries.</p> <p>6 Q. And why was that -- what -- what did the</p> <p>7 different countries mean in terms of their separate</p> <p>8 character in your -- in your opinion?</p> <p>9 A. I don't understand.</p> <p>10 Q. Well, what -- why did the oceans</p> <p>11 matter between Japan and China in terms of the MMA --</p> <p>12 A. Well --</p> <p>13 Q. -- business and those different countries?</p> <p>14 A. It's not just about MMA business. Just</p> <p>15 culturally they're very different and don't all get</p> <p>16 along with each other, have their own indigenous</p> <p>17 forms of martial arts. So, yeah, each one was a</p> <p>18 unique challenge.</p> <p>19 Somebody in Japan was not necessarily going</p> <p>20 to cheer on somebody from China. They're -- you</p> <p>21 know, it's almost like being in side-by-side states;</p> <p>22 you may be close, but that also can actually increase</p> <p>23 the rivalry. Like, there are local rivals. We -- we</p> <p>24 particularly want to beat them because they're so</p> <p>25 close to us.</p>

<p style="text-align: right;">294</p> <p>1 SILVA</p> <p>2 So, yeah, it -- success in any one of those</p> <p>3 was no guarantee in success for any of the others.</p> <p>4 Q. I see. And success, say, in China or the</p> <p>5 Philippines wouldn't necessarily translate into</p> <p>6 success in U.S.; is that right?</p> <p>7 A. Correct. Or Korea or anywhere else. It</p> <p>8 was -- it's all very specific.</p> <p>9 Q. So the business and the industry is very</p> <p>10 culture- or country-specific in your opinion?</p> <p>11 A. Yeah, it can be.</p> <p>12 Q. And there are different styles in different</p> <p>13 countries that are predominant and popular; correct?</p> <p>14 A. Yes. Each would have its own match. Like</p> <p>15 in Japan, karate or judo would be very big styles</p> <p>16 that originated there, where in China it was going to</p> <p>17 be kung fu.</p> <p>18 So, you know, the -- the lessons of -- of</p> <p>19 mixed martial arts through the years showed that</p> <p>20 while all styles have useful things, you're</p> <p>21 eventually going to be able -- have to be</p> <p>22 well-rounded and choose from all styles to be</p> <p>23 successful. That's a process that would take longer</p> <p>24 in a culture where you very much tie those traditions</p> <p>25 to your national identity, like China, where -- where</p>	<p style="text-align: right;">296</p> <p>1 SILVA</p> <p>2 Q. And eventually in the United States MMA</p> <p>3 developed into its -- its own unique sport; is that</p> <p>4 right?</p> <p>5 A. Correct.</p> <p>6 Q. And that sport had a development in the</p> <p>7 United States that may have been different than MMA</p> <p>8 as it developed in China or Japan; is that right?</p> <p>9 A. Well, the popularity of it -- I -- I would</p> <p>10 say -- in Japan, there was a show that I referred to</p> <p>11 earlier named -- called Shooto that was remarkably</p> <p>12 similar to UFC, but it was not as popular. Where</p> <p>13 Pride had more of -- of a spectacle element to it.</p> <p>14 And so that was a difference in -- in the way that it</p> <p>15 was run, and -- and for that culture, it worked</p> <p>16 better.</p> <p>17 K-1 was the same way. You might have a</p> <p>18 kickboxer fight a famous celebrity, where, you know,</p> <p>19 it would be -- the equivalent is like, we're going to</p> <p>20 have Jon Jones fight Hulk Hogan. And there would</p> <p>21 probably be a certain amount of people that would</p> <p>22 attract, but it's not what we do. But in Japan, for</p> <p>23 the bigger organizations, they would use that to sell</p> <p>24 tickets. They were looking to reach out besides --</p> <p>25 you know, to a hardcore fan base; where something</p>
<p style="text-align: right;">295</p> <p>1 SILVA</p> <p>2 kung fu is very important, and to feel the</p> <p>3 superiority of that style, to put it to the test and</p> <p>4 have it not do well could be a loss of face, so it</p> <p>5 was a touchy subject.</p> <p>6 Q. And in the United States, a mixed martial</p> <p>7 arts with the combination of all of the different</p> <p>8 disciplines, was far more developed than, say, in</p> <p>9 Japan or China or Korea?</p> <p>10 A. Well, it took years to -- at first, UFC was</p> <p>11 no different, in that's what the early UFCs were</p> <p>12 about. It wasn't even about who was in it. The</p> <p>13 posters said judo versus karate versus wrestling</p> <p>14 versus boxing.</p> <p>15 Q. Right.</p> <p>16 A. The styles had been so separate, even in</p> <p>17 America, that nobody knew, and that was the draw.</p> <p>18 What -- well, what would happen --</p> <p>19 Q. Right.</p> <p>20 A. -- if those things took each other on.</p> <p>21 But eventually you found out what happened,</p> <p>22 so that stopped being the draw, and all of a sudden</p> <p>23 it would be like, well, all right, it's not</p> <p>24 necessarily about the style, it's who -- which was</p> <p>25 something that Bruce Lee predicted in the 1960s.</p>	<p style="text-align: right;">297</p> <p>1 SILVA</p> <p>2 like Shooto, which was a Japanese -- and still</p> <p>3 exists, has been running longer -- actually I believe</p> <p>4 the first Shooto show predated the UFC.</p> <p>5 Q. But it's not as popular in Japan --</p> <p>6 A. Not as popular because they prefer generally</p> <p>7 a more spectacle-based. You got like a sumo wrestler</p> <p>8 or a -- a famous actor or somebody involved with it</p> <p>9 rather than just the -- the pure sport.</p> <p>10 Q. You've heard that Dana White publicly said</p> <p>11 that the reason why the UFC purchased Pride was to</p> <p>12 shut it down. Was that your understanding as to why</p> <p>13 the UFC purchased Pride?</p> <p>14 A. No.</p> <p>15 MR. ISAACSON: Objection, foundation.</p> <p>16 Q. Did you ever hear that he said that?</p> <p>17 A. Oh, I've heard him say that, but also that</p> <p>18 was not Lorenzo's opinion about it.</p> <p>19 Q. Did you ever see documents internal to the</p> <p>20 UFC where it was expressed that the main reason for</p> <p>21 the purchase of Pride was to shut it down as a</p> <p>22 competitor?</p> <p>23 A. Absolutely not. I was --</p> <p>24 Q. You haven't seen that?</p> <p>25 A. I was actually very concerned that the plan</p>

<p style="text-align: right;">298</p> <p>1 SILVA</p> <p>2 was for me to have to go to Japan quite often and</p> <p>3 keep Pride running --</p> <p>4 Q. But it -- but that didn't --</p> <p>5 A. -- and I very much did not want to go to</p> <p>6 Japan.</p> <p>7 Q. But that didn't turn out to be the case?</p> <p>8 A. That did not end up happening.</p> <p>9 Q. What ended up happening?</p> <p>10 A. Eventually we'd fold Pride into the UFC.</p> <p>11 Q. And Pride was shut down?</p> <p>12 A. Yes.</p> <p>13 Q. Were you involved at all in the plans for</p> <p>14 the purchase of Pride?</p> <p>15 A. Not in any of the mechanics of it other than</p> <p>16 being made aware: This is what we're doing and this</p> <p>17 is what you may have to do.</p> <p>18 Q. Were you aware that Dana White said</p> <p>19 publicly: "Pride is dead, dummy, we killed it"?</p> <p>20 MR. ISAACSON: Objection. Foundation.</p> <p>21 A. I know that Dana is extremely proud of the</p> <p>22 things that he's accomplished with the UFC, so he's</p> <p>23 very competitive. And, yeah, he had that attitude of</p> <p>24 like let's take on the world. But as I said,</p> <p>25 Lorenzo's philosophy was very different.</p>	<p style="text-align: right;">300</p> <p>1 SILVA</p> <p>2 RUFF going into a tournament without locking up all</p> <p>3 fighters throughout also looks like they don't know</p> <p>4 what they're doing."</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Do you know what he meant by that, "RUFF</p> <p>8 going into tournament without locking up all fighters</p> <p>9 throughout also looks like they don't know what</p> <p>10 they're doing"?</p> <p>11 A. Yes. They announced a multi-show tournament</p> <p>12 but were not signing multiple-fight contracts with</p> <p>13 the fighters, which doesn't make sense, because they</p> <p>14 have no obligation to finish the tournament.</p> <p>15 If you are going to publicly announce a</p> <p>16 tournament, you should have the fighters under</p> <p>17 contract long enough to actually complete the</p> <p>18 tournament.</p> <p>19 Q. That makes sense.</p> <p>20 So Mr. Shelby then says in the last</p> <p>21 paragraph there: "If we're going to be doing a</p> <p>22 series with guys not necessarily ready for the UFC</p> <p>23 and lower payouts, there are plenty of fighters out</p> <p>24 there."</p> <p>25 Do you see that?</p>
<p style="text-align: right;">299</p> <p>1 SILVA</p> <p>2 Q. But you -- you have -- you are aware that</p> <p>3 Mr. White did say, "Pride is dead, dummy, we killed</p> <p>4 it"?</p> <p>5 MR. ISAACSON: Misstating the record.</p> <p>6 Objection.</p> <p>7 Q. Something to that -- words to that effect,</p> <p>8 you're aware he did say that publicly; correct?</p> <p>9 MR. ISAACSON: Same objection.</p> <p>10 A. Yes.</p> <p>11 Q. Did you have a conversation with him after</p> <p>12 he said that?</p> <p>13 A. No.</p> <p>14 Q. Did he ever tell you why he said that?</p> <p>15 A. No.</p> <p>16 Q. If you turn to the first page of this</p> <p>17 document there's an e-mail from Mr. Shelby to you and</p> <p>18 Mr. Fischer responding to Mr. Fischer's e-mail. This</p> <p>19 is dated August 27, 2012. And he says: "Fighters</p> <p>20 will go where the immediate money is. One FC seems</p> <p>21 willing to pay way above market value for any name</p> <p>22 guys, just as Strikeforce, Dream, Affliction, Pride,</p> <p>23 Elite XC, Bodog, et cetera, did. They can also sign</p> <p>24 up everyone who has a pulse, but they still have a</p> <p>25 limited number of events to honor all the contracts.</p>	<p style="text-align: right;">301</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. He says: "For example, Shooto alone will</p> <p>4 put on 20 events this year with only Japanese</p> <p>5 talent."</p> <p>6 A. Yes.</p> <p>7 Q. And would you -- do -- do you understand</p> <p>8 what he was implying here?</p> <p>9 What did he mean that "if we're going to be</p> <p>10 doing a series with guys not necessarily ready for</p> <p>11 the UFC"?</p> <p>12 A. That if there was -- the idea was played</p> <p>13 around with of doing more localized shows, that they</p> <p>14 would not be the regular UFC, with something that was</p> <p>15 meant to grow local talent, where it would be unfair,</p> <p>16 if you have a country that does not have a deep MMA</p> <p>17 pool, to throw them in against more experienced, more</p> <p>18 talented guys, and just get them crushed would help</p> <p>19 nobody, but that you could have a, you know,</p> <p>20 satellite show and let them compete amongst</p> <p>21 themselves, and, you know, give them the chance to</p> <p>22 have that experience and grow the talent, and then</p> <p>23 eventually get to UFC.</p> <p>24 Q. And so there potentially were a number of</p> <p>25 guys -- strike that.</p>

<p style="text-align: right;">302</p> <p>1 SILVA</p> <p>2 MR. CRAMER: All right. I'd like to mark</p> <p>3 as the next document Silva Exhibit 28. Thank</p> <p>4 you.</p> <p>5 (Silva Deposition Exhibit 28 marked for</p> <p>6 identification.)</p> <p>7 Q. Silva 28 is a one-page e-mail with the Bates</p> <p>8 number ZFL-0827903. It's actually two e-mails. The</p> <p>9 one at the top is from Lorenzo Fertitta to Joe Silva</p> <p>10 and cc'd to White and Epstein, dated March 20, 2014.</p> <p>11 And I'd like to draw your attention</p> <p>12 particularly -- first of all, this relates to Rogerio</p> <p>13 Nogueira?</p> <p>14 A. Nogueira.</p> <p>15 Q. Nogueira, okay. And he is also known as</p> <p>16 Little Nog; is that right?</p> <p>17 A. Correct.</p> <p>18 Q. Is he a big name fighter?</p> <p>19 A. Not as big as his brother, but he is a</p> <p>20 well-known fighter.</p> <p>21 Q. Okay. And then on March 19, 2014, am I</p> <p>22 right that you sent an e-mail to White and Fertitta</p> <p>23 and Epstein about Little Nog?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And this e-mail has a list of 1 to 15</p>	<p style="text-align: right;">304</p> <p>1 SILVA</p> <p>2 Q. Do you recall that incident?</p> <p>3 A. I don't recall it, but yeah, I --</p> <p>4 Q. It happened.</p> <p>5 A. -- it doesn't surprise me.</p> <p>6 Q. And, "He says he wants someone easier after</p> <p>7 his layoff. He was jumping up and down to fight Rich</p> <p>8 Franklin."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. So he didn't want to fight Cormier, he</p> <p>12 wanted to fight Rich Franklin, who he thought would</p> <p>13 be easier to fight?</p> <p>14 A. Well, Rich Franklin wasn't even in his</p> <p>15 weight class and was way past his prime, so it was</p> <p>16 kind of a nonsensical. It's like, I'm sure you would</p> <p>17 like to fight that fight.</p> <p>18 Q. Okay. And then you say: "Would love to cut</p> <p>19 him, but he would just end up fighting Rampage in</p> <p>20 Bellator."</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. What did you mean by that?</p> <p>24 A. That I was definitely frustrated that --</p> <p>25 you're trying -- like, if you have somebody like</p>
<p style="text-align: right;">303</p> <p>1 SILVA</p> <p>2 with various UFC fighters' names and notes for each;</p> <p>3 is that right?</p> <p>4 A. Yes.</p> <p>5 Q. What is this list?</p> <p>6 A. Well, sometimes, you know, they'll ask --</p> <p>7 it's like, well, who's going to fight who. And I'll</p> <p>8 say, well, I -- I think this, and like, what else is</p> <p>9 out there, what other things. So it's like I like to</p> <p>10 head that off by going, here's what everybody's</p> <p>11 doing. All -- if you're looking for a higher --</p> <p>12 because they normally would leave the lower parts of</p> <p>13 the card just to my discretion.</p> <p>14 When it comes to main event, co-main event,</p> <p>15 big fights on the card, they -- they're going to have</p> <p>16 say in it, so I like to present them with options.</p> <p>17 And rather than each time they go, wait,</p> <p>18 what's this guy doing, it's like, I'm going to take</p> <p>19 care of it all at once, I'm going to go through it</p> <p>20 and sketch out what everybody in the top 15 is doing.</p> <p>21 Q. Okay. In the first sentence of your e-mail</p> <p>22 that we're just talking about, you say: "Nogueira</p> <p>23 has flat out refused to fight Daniel Cormier."</p> <p>24 Do you see that?</p> <p>25 A. Yes. Yes.</p>	<p style="text-align: right;">305</p> <p>1 SILVA</p> <p>2 Cormier who wants to fight, and you have to get him a</p> <p>3 legitimate guy and you have one, and it's like, oh,</p> <p>4 you want a fight, perfect, I have a fight for you,</p> <p>5 Cormier. And it's just like, no, and it's not 'cause</p> <p>6 I'm injured, it's not anything, I just don't want to</p> <p>7 fight that guy. It's like, well, that's really</p> <p>8 unfair to Cormier and -- and you're putting me in a</p> <p>9 bad position here. I -- I brought you in to fight,</p> <p>10 so, yeah.</p> <p>11 It's like, if he won't fight the -- the guys</p> <p>12 that we need him to fight, why are we holding on to</p> <p>13 him?</p> <p>14 I could see -- other matches you can do, I</p> <p>15 can see what other people could do with him. But</p> <p>16 there's also no guarantee. He had -- another problem</p> <p>17 with Little Nog is that he was constantly injured.</p> <p>18 So it would be that, I get paid a lot of</p> <p>19 money, because he had a very good contract, so you're</p> <p>20 like, well, you're going to fight top guys, so you</p> <p>21 deserve that top contract, but then he'd be injured</p> <p>22 and be out for a while and go, I can't fight a top</p> <p>23 guy, I've not fought for awhile, and it would just</p> <p>24 get frustrating.</p> <p>25 Q. Okay. So you thought it would be pretty</p>

<p style="text-align: right;">306</p> <p>SILVA</p> <p>good to cut the guy because he had a top contract, wasn't willing to fight the people you wanted him to fight. But you said you'd love to cut him, but he would just end up fighting Rampage in Bellator. Why did you say that?</p> <p>A. Because I thought that was a possibility that would happen. It would just be handing them something easy.</p> <p>Q. You -- you would be handing Bellator a -- a top name to fight in Bellator; correct?</p> <p>A. Credible name. Not a top name.</p> <p>Q. A credible name.</p> <p>And so you'd rather hold on to him even though you'd love to cut him, so that Bellator didn't have him --</p> <p>A. Well, it wasn't -- no, it's not that I -- I said I wanted to cut him, I just said, hey, I'm making my bosses who are going to make the decision -- I'm giving them all the options. Here's all the ups, here's all the downs, you decide, and then they said, "Don't cut him."</p> <p>Q. Right. As long as he was under contract with Zuffa, the exclusivity term in his Zuffa contract would bar him from fighting for Bellator;</p>	<p style="text-align: right;">308</p> <p>SILVA</p> <p>A. Right.</p> <p>MR. ISAACSON: Objection to form.</p> <p>Q. Right.</p> <p>A. But I also had no say in it. All I could do is present the option, and they decided.</p> <p>Q. And based upon your recommendation that if you let him go, he would go fight Rampage in Bellator, they decided to keep him?</p> <p>A. No.</p> <p>Q. They let him go?</p> <p>A. You don't know that. They just said, "Don't cut him." They also like Big Nog. They're not saying why. He just said, "Don't cut him."</p> <p>Q. All right. Said, "Don't cut him." That's what it says at the top. "That's fine. Don't cut nog."</p> <p>A. But they have a good relationship with his brother, there's people that know him personally, so what the reason was for it -- it could very much be like, I'd just love to cut this guy, he's a pain in the ass, and not mention the Bellator, and then still say, "Don't cut him."</p> <p>Q. But you thought in -- as part of giving advice to Dana White and Lawrence Epstein and Lorenzo</p>
<p style="text-align: right;">307</p> <p>SILVA</p> <p>right?</p> <p>A. Correct.</p> <p>Q. And would the fact that he refused to take a fight give you grounds to cut him under the terms of his contract?</p> <p>A. That was my understanding.</p> <p>Q. And if Little Nog fought Rampage -- Rampage was a former UFC champion; is that right?</p> <p>A. Yes.</p> <p>Q. And if he fought Rampage in Bellator, that would be a fight that could potentially attract a large number of viewers; correct?</p> <p>A. Better than some of the other options they had.</p> <p>Q. Right. So that would improve Bellator's ability to put on a successful event; correct?</p> <p>A. Right. It's not my job to help Bellator.</p> <p>Q. It is not.</p> <p>And you, in fact, were -- your job was to help the UFC; right?</p> <p>A. Correct.</p> <p>Q. And one of the ways you can help the UFC is to keep a guy under contract, because if you let him go, he would help Bellator; right?</p>	<p style="text-align: right;">309</p> <p>SILVA</p> <p>Fertitta about reasons for or against cutting Nog, one of the reasons against cutting Nog was that if he left, he would go fight Rampage and Bellator; right?</p> <p>A. That is a possibility I wanted to bring to their attention.</p> <p>Q. Would you agree that one factor that attracts fighters to a promotion is the opportunity for lucrative match-ups?</p> <p>A. Could you rephrase?</p> <p>Q. Yeah. One -- one reason why a fighter wants to go work for a particular MMA promotion versus another is that one promotion might have a better opportunity for match-ups that could be lucrative for them, advance their career?</p> <p>A. I don't think it's not necessarily about the match-ups as much as simply they think which one will pay me more, period. I think they know quite often the match-ups are not only out of their control, they're out of our control.</p> <p>Q. Well, if you go work for a promotion that doesn't have anybody of your caliber, then you're not going to be able to test yourself.</p> <p>A. No. Even if you could test yourself, it doesn't mean that that promotion will pay you to test</p>

<p style="text-align: right;">310</p> <p>1 SILVA</p> <p>2 yourself.</p> <p>3 Q. Right. That's true. But it would not</p> <p>4 advance a fighter's career to go work for a promotion</p> <p>5 that doesn't have a stable of fighters under contract</p> <p>6 that are on -- of the same caliber of a fighter that</p> <p>7 wants to join that promotion; correct?</p> <p>8 MR. ISAACSON: Objection to form.</p> <p>9 A. No, that's not correct. As I stated in a</p> <p>10 lot of those e-mails we already looked at, my</p> <p>11 criteria to them was simply fight guys with a winning</p> <p>12 record to elevate yourself. There's no promotion out</p> <p>13 there who doesn't have people who have winning</p> <p>14 records in them.</p> <p>15 Q. Right. But there's winning records and</p> <p>16 there's winning records. From your perspective,</p> <p>17 someone with a winning record fighting a bunch of</p> <p>18 no-names is different than someone with a winning</p> <p>19 record fighting former UFC talent; right?</p> <p>20 A. Certainly.</p> <p>21 MR. ISAACSON: Objection. Argumentative.</p> <p>22 MR. CRAMER: I would like to mark the next</p> <p>23 document as Silva Exhibit 29.</p> <p>24 (Silva Deposition Exhibit 29 marked for</p> <p>25 identification.)</p>	<p style="text-align: right;">312</p> <p>1 SILVA</p> <p>2 was; yes? Is that right?</p> <p>3 A. Seems right.</p> <p>4 Q. Okay. And you send an e-mail to Ms. Long</p> <p>5 saying -- regarding Strikeforce on July 31, you</p> <p>6 list -- you identify four guys. You say: "Overeem,</p> <p>7 Cung Le, Robbie Lawler, Nick Diaz."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Who are you identifying there?</p> <p>11 Well, who -- this is a list of people who --</p> <p>12 well, who is this a list of?</p> <p>13 A. She's asking for a list of Strikeforce</p> <p>14 fighters with comps and fights left. So of guys in</p> <p>15 my weight class, those are the guys that I sent, that</p> <p>16 yes, they still have Strikeforce-related contracts.</p> <p>17 Q. Okay. One of those was Cung Le; is that</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 Q. He's one of the plaintiffs in this case, do</p> <p>21 you know that?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Have you spoken to Mr. Le about this</p> <p>24 case?</p> <p>25 A. No.</p>
<p style="text-align: right;">311</p> <p>1 SILVA</p> <p>2 Q. All right. This is a series of e-mails with</p> <p>3 the Bates range ZFL-2497582 through 7584.</p> <p>4 If you look at the bottom of the page, Long</p> <p>5 writes to you and Sean Shelby on July 31, 2014:</p> <p>6 "Lorenzo has asked me to prepare a list of all</p> <p>7 Strikeforce fighters with comp and fights left."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Do you recall this?</p> <p>11 A. No.</p> <p>12 Q. Okay. You don't doubt that --</p> <p>13 A. No.</p> <p>14 Q. -- you received this e-mail?</p> <p>15 A. I do not doubt.</p> <p>16 Q. Okay. And then on the next page, Long says:</p> <p>17 "Can you look at and tell me if I am missing anyone,</p> <p>18 or if I need to remove anyone, before I start pulling</p> <p>19 what their comp is and how many fights left?"</p> <p>20 Do you see that?</p> <p>21 A. Oh, yes. Yeah.</p> <p>22 Q. All right. So this e-mail from Ms. Long</p> <p>23 attaches a list of Strikeforce fighters, and she was</p> <p>24 asked to figure out how many fights were left in</p> <p>25 their contract and what their compensation structure</p>	<p style="text-align: right;">313</p> <p>1 SILVA</p> <p>2 Q. Have you spoken to any fighters about this</p> <p>3 case?</p> <p>4 A. No.</p> <p>5 Q. All right. In your e-mail a little bit up</p> <p>6 the page to Ms. Long, at 8:46 p -- a.m. on July 31st,</p> <p>7 you say: "Not 100 percent sure why Lorenzo wants</p> <p>8 this list but my guess is he wants to make sure that</p> <p>9 fighters with past Strikeforce ties are locked up in</p> <p>10 case Coker tries to recruit them now that he is at</p> <p>11 Bellator."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Do you know what he was referring to</p> <p>15 there -- or what you were referring to?</p> <p>16 A. Well, once again, I was making a guess. It</p> <p>17 says I was not a hundred percent sure. Sometimes we</p> <p>18 just get these requests for things, but without any</p> <p>19 detail as why. So you're just trying to figure out.</p> <p>20 Sometimes it makes you -- will help you make a better</p> <p>21 list if you can ascertain, wait, exactly what do they</p> <p>22 need this for, but we were not given a reason.</p> <p>23 Q. Okay.</p> <p>24 A. So I'm going, well, I'm guessing this is</p> <p>25 why.</p>

<p style="text-align: right;">314</p> <p>1 SILVA</p> <p>2 Q. So you were guessing that one of the things</p> <p>3 that Mr. -- that Lorenzo Fertitta wanted was a list</p> <p>4 of fighters that had been at Strikeforce who were</p> <p>5 under contract in case Bellator's new CEO, Coker,</p> <p>6 tried to recruit them over?</p> <p>7 A. Yes.</p> <p>8 Q. Right? Because Coker was the head of</p> <p>9 Strike --</p> <p>10 MR. ISAACSON: Objection. Calls for</p> <p>11 guessing.</p> <p>12 Q. Coker was at Strikeforce; right?</p> <p>13 A. He was.</p> <p>14 Q. And UFC bought Strikeforce; right?</p> <p>15 A. We did.</p> <p>16 Q. Then Coker went to Bellator; right?</p> <p>17 A. Correct.</p> <p>18 Q. All right. And so you're -- you're thinking</p> <p>19 that Lorenzo might be concerned that Coker might try</p> <p>20 to recruit his former Strikeforce fighters; right?</p> <p>21 MR. ISAACSON: Objection. Speculation.</p> <p>22 Calls for guessing.</p> <p>23 A. And I was guessing. I say right in it that</p> <p>24 I'm not a hundred percent sure why.</p> <p>25 Q. Right. But it certainly made sense to you,</p>	<p style="text-align: right;">316</p> <p>1 SILVA</p> <p>2 contract; right?</p> <p>3 A. Correct.</p> <p>4 Q. And if they're under contract with</p> <p>5 Strikeforce or the UFC, they couldn't go to Bellator;</p> <p>6 is that right?</p> <p>7 A. Correct.</p> <p>8 Q. All right. You can put that document aside.</p> <p>9 And one reason that Zuffa purchased</p> <p>10 Strikeforce was to obtain its fighter contracts,</p> <p>11 Strikeforce's fighter contracts; right?</p> <p>12 MR. ISAACSON: Objection.</p> <p>13 Q. You can answer.</p> <p>14 A. Yes.</p> <p>15 Q. And at the time of the Strikeforce purchase,</p> <p>16 Strikeforce was one of the UFC's most significant MMA</p> <p>17 competitors; right?</p> <p>18 A. Yes.</p> <p>19 Q. And it had talent and weight classes that</p> <p>20 the UFC did not have; correct?</p> <p>21 A. I believe -- well, they had the female</p> <p>22 divisions which we did not have.</p> <p>23 Q. And if Strikeforce fighters went to Bellator</p> <p>24 instead of the UFC, it would have improved Bellator's</p> <p>25 ability to compete with the UFC; correct?</p>
<p style="text-align: right;">315</p> <p>1 SILVA</p> <p>2 enough to write it down, that one of -- that one</p> <p>3 rational reason for this assignment --</p> <p>4 A. That could be incorrect, though.</p> <p>5 Q. Right, it could be incorrect, it could be</p> <p>6 correct.</p> <p>7 But in your mind, one rational reason for</p> <p>8 this list is that Mr. Fertitta was concerned</p> <p>9 potentially that Mr. Coker might try to recruit</p> <p>10 former Strikeforce fighters over to Bellator; right?</p> <p>11 MR. ISAACSON: Objection. Calls for</p> <p>12 speculation and guessing.</p> <p>13 Q. That's what you were thinking; right?</p> <p>14 A. That's what I guessed could be.</p> <p>15 Q. All right. Did -- did you ever find out --</p> <p>16 A. And I was also hoping and saying that maybe</p> <p>17 Tracy had more knowledge as to why, and would then</p> <p>18 give it, but I didn't get any further clarification,</p> <p>19 not that I see here.</p> <p>20 Q. Do you recall subsequently getting</p> <p>21 clarification about why this request was made?</p> <p>22 A. I do not remember.</p> <p>23 Q. And when you said, "make sure that fighters</p> <p>24 with past Strikeforce ties are locked up in case</p> <p>25 Coker tries to recruit them," you meant under</p>	<p style="text-align: right;">317</p> <p>1 SILVA</p> <p>2 A. Some of the fighters.</p> <p>3 Q. So if some of the fighters went from</p> <p>4 Strikeforce to Bellator instead of the UFC, that</p> <p>5 would have improved Bellator's ability to compete</p> <p>6 with the UFC; correct?</p> <p>7 A. They would have improved any company that</p> <p>8 they went to.</p> <p>9 MR. CRAMER: All right. Like to mark the</p> <p>10 next document as Silva Exhibit 30.</p> <p>11 (Silva Deposition Exhibit 30 marked for</p> <p>12 identification.)</p> <p>13 Q. Silva 30 is a one-page e-mail with the Bates</p> <p>14 number ZFL-2536695. It's dated August 2nd, 2013,</p> <p>15 from Mr. Mersch -- I'm sorry, from Ms. Long to</p> <p>16 Mr. Silva, cc'd to Mr. Mersch.</p> <p>17 And Ms. Long says to you, Mr. Silva:</p> <p>18 "Lorenzo wants Hector tied up in case he looks good</p> <p>19 at UFC 166. He wants me to prepare a 3-fight</p> <p>20 Agreement: 100, 105, 110 (no win bonus) which will</p> <p>21 supercede his current Agreement, Signing Bonus,</p> <p>22 Endorsement Agreement. Lawrence wanted me to run it</p> <p>23 by you."</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">318</p> <p>1 SILVA</p> <p>2 Q. Did you receive this e-mail from Ms. Long?</p> <p>3 A. Yes.</p> <p>4 Q. What did -- what did she mean that Lorenzo</p> <p>5 wants Hector tied up in case he looks good at</p> <p>6 UFC 166?</p> <p>7 A. My recollection is that Hector was just --</p> <p>8 there was some kind of strange circumstance. He was</p> <p>9 going to fight one fight, and it just -- it had not</p> <p>10 worked out for him, he did not do well in the UFC,</p> <p>11 and I believe we were going to release him, and he</p> <p>12 just asked, it was like, let me just fight one more</p> <p>13 fight for you, just one more fight. And we were,</p> <p>14 okay, we'll let you fight one more fight. And then</p> <p>15 as Lorenzo considered it, it's like, you know what, I</p> <p>16 want him for more than one fight, let's do this</p> <p>17 thing. So that's what that was about.</p> <p>18 Q. I see. So he is on the last fight of a</p> <p>19 contract, he says I only want to fight one more</p> <p>20 fight and --</p> <p>21 A. It wasn't that he only wanted to fight one</p> <p>22 more fight, it was that he was going to be released</p> <p>23 from his contract for poor performance. He asked</p> <p>24 please give me one more chance. We're like, all</p> <p>25 right, we'll -- we'll let you do the last chance,</p>	<p style="text-align: right;">320</p> <p>1 SILVA</p> <p>2 Q. -- the contract?</p> <p>3 A. That is incorrect. It was not contingent on</p> <p>4 that. They're like, look, we're willing to fight one</p> <p>5 more fight just to show that we're good. Lorenzo</p> <p>6 thought about it and go, no, you know, we're good,</p> <p>7 let's just do a regular deal; not we won't give you</p> <p>8 that last fight if you don't sign a new deal. I</p> <p>9 don't believe that that was contingent on that.</p> <p>10 Q. So your opinion is that Lorenzo would have</p> <p>11 let Hector fight that last fight --</p> <p>12 A. Yeah.</p> <p>13 Q. -- without Hector signing a long-term --</p> <p>14 A. It was already announced. You could look in</p> <p>15 the context of this e-mail. He was -- already had a</p> <p>16 fight at 1 -- UFC 166. That fight was happening, and</p> <p>17 then he wanted to add on after that fight was already</p> <p>18 happening.</p> <p>19 Q. Right. But then Lorenzo says he wants</p> <p>20 Hector tied up in case he looks good at UFC 166;</p> <p>21 right?</p> <p>22 A. Yes.</p> <p>23 Q. So if -- the fight hadn't happened yet;</p> <p>24 correct?</p> <p>25 A. Right, but it was already announced. It was</p>
<p style="text-align: right;">319</p> <p>1 SILVA</p> <p>2 and -- but that's all -- all it was to us was like,</p> <p>3 he'll just fight one more fight and we're done. And</p> <p>4 then upon thinking about it, Lorenzo was like, no,</p> <p>5 let's not just do it one more, let's do a</p> <p>6 multi-fight.</p> <p>7 Q. So he's gotta -- you tell him basically,</p> <p>8 we'll give you one more fight. Other -- we -- the</p> <p>9 choices are we'll cut you or give you one more fight,</p> <p>10 right, those were the choices at that time?</p> <p>11 A. Well, he didn't -- it wasn't a -- my choice</p> <p>12 or his choice?</p> <p>13 Q. The UFC was presented with a choice. You</p> <p>14 could either cut him, as you were thinking about --</p> <p>15 A. Yes.</p> <p>16 Q. -- or you could accede to his request and</p> <p>17 give him one more fight?</p> <p>18 A. Correct.</p> <p>19 Q. Okay. And you agreed to give him one more</p> <p>20 fight; right?</p> <p>21 A. Correct.</p> <p>22 Q. All right. And what -- what Lorenzo was</p> <p>23 saying is, the price to Hector of your agreement to</p> <p>24 give him that one more fight was he's got to sign --</p> <p>25 A. No. That is --</p>	<p style="text-align: right;">321</p> <p>1 SILVA</p> <p>2 already going to. He had a fight at 166. I had to</p> <p>3 have an opponent locked in and opponent agreed to, to</p> <p>4 even state this.</p> <p>5 Q. Right. But at some point Mr. --</p> <p>6 Mr. Lombard, before he fought at 166, he was</p> <p>7 presented with a three-fight agreement; correct?</p> <p>8 A. He was asked. It's not like, here, take</p> <p>9 this. It's, hey, would you like to just go ahead and</p> <p>10 do a new deal. And they said yes.</p> <p>11 Q. He was presented -- it's fair to say that</p> <p>12 Mr. Lombard, before he fought, was prevented with a</p> <p>13 new deal -- presented with a new deal; correct?</p> <p>14 A. That's my understanding. I didn't do that</p> <p>15 deal.</p> <p>16 Q. You didn't do that?</p> <p>17 A. This was Lorenzo's.</p> <p>18 Q. Somebody came to Mr. Lombard and said</p> <p>19 before --</p> <p>20 A. To his management.</p> <p>21 Q. -- to his management -- before 166, because</p> <p>22 he might look good in that fight, and said, here's a</p> <p>23 three-fight agreement, and this agreement would</p> <p>24 supercede your existing agreement and give you three</p> <p>25 more fights. And he was given the option to sign or</p>

<p style="text-align: right;">326</p> <p>1 SILVA</p> <p>2 Zuffa's acquisition of Strikeforce?</p> <p>3 A. I believe so.</p> <p>4 Q. I think that was in March.</p> <p>5 Was Overeem a champion with Strikeforce?</p> <p>6 A. I don't think he was actually a Strikeforce</p> <p>7 world champion, but I don't recall.</p> <p>8 Q. Okay. Well, let me just --</p> <p>9 A. But he was a -- he was a name heavyweight.</p> <p>10 He was a top heavyweight.</p> <p>11 Q. Well, let me -- let me draw your attention</p> <p>12 to something you said in an e-mail in the middle of</p> <p>13 the page. You said to Mr. Overeem on July 15, 2011,</p> <p>14 the fourth line down: "We can't" -- well, here --</p> <p>15 let me -- let's get the context here.</p> <p>16 You say: "As I explained to you, the Nick</p> <p>17 Diaz situation is completely different and that is</p> <p>18 why he is the only guy who we were able to bring</p> <p>19 over. He was under a multi-fight deal but had a</p> <p>20 provision where he could box which we really didn't</p> <p>21 want so they had to give him a whole new deal."</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. What's that referring to?</p> <p>25 A. That, with Showtime, the network had</p>	<p style="text-align: right;">328</p> <p>1 SILVA</p> <p>2 people from Strikeforce to the UFC, that -- that</p> <p>3 Strikeforce would then be devalued?</p> <p>4 A. Or that Showtime would feel -- we had a</p> <p>5 contractual obligation to them, and say we have</p> <p>6 champions and we will continue to be able to show</p> <p>7 these champions on our network, we feel we've</p> <p>8 invested network time in these guys, so don't do</p> <p>9 that.</p> <p>10 Q. And -- and in -- in your view, if you --</p> <p>11 this is you talking, right, we can't take all of</p> <p>12 their champions away and devalue the company? That's</p> <p>13 what you were saying?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And you were saying that UFC can't</p> <p>16 take all of Strikeforce's champions away because that</p> <p>17 would devalue Strikeforce and potentially abrogate</p> <p>18 whatever agreements you had with Showtime?</p> <p>19 A. Correct. It would affect the Showtime deal.</p> <p>20 Q. And then if you turn to the next page or the</p> <p>21 third page of the e-mail, there is another -- on --</p> <p>22 on page 3 of the e-mail there's another part where</p> <p>23 you say: "We need to keep him in Strikeforce so as</p> <p>24 not to devalue the brand."</p> <p>25 Do you see that?</p>
<p style="text-align: right;">327</p> <p>1 SILVA</p> <p>2 contractual things with Strikeforce where we could</p> <p>3 not just do whatever we wanted to with it. They'd</p> <p>4 say you're breaching the contract that we have if you</p> <p>5 take away this champion, if you do this, do that. So</p> <p>6 we had to give in to a lot of Strike -- to Showtime's</p> <p>7 demands. It wasn't all under our control.</p> <p>8 Nick Diaz, in his Strikeforce contract, had</p> <p>9 a provision where he could box professionally. We</p> <p>10 did not want a fighter fighting another contact sport</p> <p>11 outside of UFC where they could take damage, be</p> <p>12 unavailable for UFC or Strikeforce fights, but it was</p> <p>13 in his contract, so that gave him negotiating -- it's</p> <p>14 like, well, if you want me to take that out, then I</p> <p>15 need to go to UFC and not be in there.</p> <p>16 So -- but we still had to bring it to</p> <p>17 Showtime and go, look, this is the situation. And</p> <p>18 Showtime said, "Okay, we'll make that exception."</p> <p>19 Q. Okay. And then you say: "We can't just</p> <p>20 take all of their champions away and devalue the</p> <p>21 company."</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. And am I right that what you were saying is</p> <p>25 if you bring over all of the champions and the top</p>	<p style="text-align: right;">329</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. "We cannot bring him over the UFC at this</p> <p>4 time."</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. What did you mean by that?</p> <p>8 A. That's exactly what I said in the first</p> <p>9 page.</p> <p>10 Q. Okay.</p> <p>11 A. That we had a deal with -- the deal that was</p> <p>12 made that we bought, that Showtime was entered into</p> <p>13 with Strikeforce, prevented us from just taking</p> <p>14 whoever we wanted out of the organization.</p> <p>15 Q. And -- and if you took out Strikeforce's</p> <p>16 champions, it would devalue the -- the show that</p> <p>17 Showtime would be able to put on; is that right?</p> <p>18 A. They felt it would.</p> <p>19 Q. Did you agree with them? Is that fair</p> <p>20 judgment, that if Strikeforce's champions were all</p> <p>21 moved over to the UFC --</p> <p>22 A. Well, I don't agree with all their things.</p> <p>23 Certainly taking all -- anybody's champions is not</p> <p>24 the best thing. But they also had Ronda Rousey and</p> <p>25 they didn't believe in Ronda Rousey.</p>

<p style="text-align: right;">330</p> <p>1 SILVA</p> <p>2 Q. And -- and just so I understand it, it would</p> <p>3 devalue a mixed martial arts promotion if the highest</p> <p>4 level fighters in that organization are taken away;</p> <p>5 correct? It would be a less valuable promotion?</p> <p>6 A. Yes.</p> <p>7 Q. And -- and that's because the highest-level</p> <p>8 fighters in an MMA promotion are a substantial</p> <p>9 component of the value of that organization; correct?</p> <p>10 A. Yes.</p> <p>11 Q. And -- and the -- the champions and -- in</p> <p>12 general are the fighters who can headline events;</p> <p>13 correct?</p> <p>14 A. Not necessarily.</p> <p>15 Q. There are champions and then some other</p> <p>16 top-level popular fighters.</p> <p>17 A. Correct. You have some champions are</p> <p>18 popular as champions. Being a champion gives a</p> <p>19 fighter a certain level of credibility. Does not</p> <p>20 guarantee that they'll be popular.</p> <p>21 We've had some very talented champions who</p> <p>22 just never did get fan popularity. And then you had</p> <p>23 somebody who's brought up like Kimbo with Strikeforce</p> <p>24 who was never going to be a champion but was</p> <p>25 immensely popular.</p>	<p style="text-align: right;">332</p> <p>1 SILVA</p> <p>2 A. That would be ideal.</p> <p>3 Q. That would be ideal.</p> <p>4 Would you agree that a champion is typically</p> <p>5 at the height of his or her popularity as a fighter</p> <p>6 at the period at which he or she becomes the</p> <p>7 champion?</p> <p>8 A. No.</p> <p>9 Q. No. Well, when are they -- why is that not</p> <p>10 true?</p> <p>11 A. Because popularity doesn't have anything</p> <p>12 necessarily to do with your accomplishments. It can</p> <p>13 help, but it has more to do with charisma. Larry</p> <p>14 Holmes ended up accomplishing more than Muhammad Ali</p> <p>15 in many ways in his career but never was as popular</p> <p>16 as Muhammad Ali was.</p> <p>17 Q. Well, in terms of Larry Holmes' career, he</p> <p>18 was more popular when he won than when he lost;</p> <p>19 correct? Larry Holmes beat Muhammad Ali, didn't he?</p> <p>20 A. Correct, but I don't think that made him</p> <p>21 popular, I actually think that turned people against</p> <p>22 him. People resented him beating Ali.</p> <p>23 Q. Yeah, I guess that's so.</p> <p>24 But there are many who, when they become a</p> <p>25 champion, that is when their -- their -- that is the</p>
<p style="text-align: right;">331</p> <p>1 SILVA</p> <p>2 Q. So you had some champions who were not as</p> <p>3 popular and some nonchampions who were popular?</p> <p>4 A. Correct.</p> <p>5 Q. But there is a group of fighters who,</p> <p>6 whether they're champions or not, are -- tend to</p> <p>7 separate themselves from the crowd as capable of</p> <p>8 being headliners; correct?</p> <p>9 A. Yes. If you could headline with a</p> <p>10 championship fight is generally preferable than not,</p> <p>11 unless you have a big star like a Kimbo or a Gina</p> <p>12 Carano.</p> <p>13 Q. And as a general statement, an event will</p> <p>14 have difficulty succeeding without these top-level</p> <p>15 headline fighters; correct?</p> <p>16 MR. ISAACSON: Objection to form.</p> <p>17 A. Yeah. I mean, we -- UFC puts on numerous</p> <p>18 events a year and they're not all the name value that</p> <p>19 we would want, but it doesn't mean they're not going</p> <p>20 to achieve a level of success.</p> <p>21 Q. But you -- what you want is to be able to</p> <p>22 headline, as an MMA promotion, to headline your</p> <p>23 events with the top-level popular fighters, some of</p> <p>24 whom are champions; correct?</p> <p>25 MR. ISAACSON: Objection to form.</p>	<p style="text-align: right;">333</p> <p>1 SILVA</p> <p>2 height of their popularity.</p> <p>3 A. For some. For others, are you a humble</p> <p>4 champion, are you an entertaining champion. There</p> <p>5 are some champions who turn fans on them maybe with</p> <p>6 their attitudes, maybe with refusing to fight top</p> <p>7 contenders. It's just -- it's not a guaranteed</p> <p>8 thing, but it -- it's certainly -- it's at a level of</p> <p>9 accomplishment you can point to. Yes, I became a</p> <p>10 champion.</p> <p>11 Some will use that as a vehicle to -- but I</p> <p>12 would say like right now Ronda Rousey is not the</p> <p>13 champion, she's lost her last two fights, but if she</p> <p>14 came back and fought, she'd still be incredibly</p> <p>15 popular.</p> <p>16 MR. CRAMER: All right. The court</p> <p>17 reporter has asked for a break, so let's take</p> <p>18 a break.</p> <p>19 THE VIDEOGRAPHER: We're off the record at</p> <p>20 3:18 p.m.</p> <p>21 (Recess taken at 3:18 p.m., proceedings</p> <p>22 resumed at 3:32 p.m.)</p> <p>23 THE VIDEOGRAPHER: Here begins Media</p> <p>24 Number 5 in the videotaped deposition of</p> <p>25 Joseph Silva. We're back on the record at</p>

<p style="text-align: right;">334</p> <p>1 SILVA</p> <p>2 3:32 p.m.</p> <p>3 BY MR. CRAMER:</p> <p>4 Q. So I believe you testified earlier that you</p> <p>5 had authority to some degree to negotiate</p> <p>6 compensation terms with fighters; correct?</p> <p>7 A. Correct.</p> <p>8 Q. And did Dana White or Lorenzo Fertitta</p> <p>9 handle negotiations with certain fighters?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. What was the distinction?</p> <p>12 How -- which fighters did Dana White or</p> <p>13 Lorenzo Fertitta handle the compensation negotiation,</p> <p>14 and which fighters did you or Shelby handle the</p> <p>15 negotiations for?</p> <p>16 MR. ISAACSON: Sorry to interrupt, but I</p> <p>17 think the realtime is off --</p> <p>18 MR. CRAMER: We're off the record.</p> <p>19 THE VIDEOGRAPHER: Off the record at 3:33.</p> <p>20 (Discussion off the record.)</p> <p>21 THE VIDEOGRAPHER: Back on the record at</p> <p>22 3:33.</p> <p>23 BY MR. CRAMER:</p> <p>24 Q. So Dana White or Lorenzo Fertitta handled</p> <p>25 the negotiations for certain fighters; that's</p>	<p style="text-align: right;">336</p> <p>1 SILVA</p> <p>2 willing to alter some of the terms, maybe the -- the</p> <p>3 length of the contract, other just different --</p> <p>4 anything that they do where it would involve more</p> <p>5 substantive changes that they would negotiate, I</p> <p>6 would ask them to take it because they -- it was much</p> <p>7 easier just being middleman, going back and forth.</p> <p>8 It's like, if you would just handle this, you know</p> <p>9 what you're willing to say yes and no to.</p> <p>10 Q. So, for example, with Ronda Rousey, did Dana</p> <p>11 handle that negotiation?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Approximately how many fighters a</p> <p>14 year did Dana or Lorenzo handle the negotiations with</p> <p>15 as opposed to you and Sean?</p> <p>16 A. I haven't kept track, so I couldn't give a</p> <p>17 close to exact number, but I would still say the</p> <p>18 majority of contracts were done by me and Sean.</p> <p>19 Q. And would you say 10 percent were done with</p> <p>20 Dana or Lorenzo?</p> <p>21 A. Probably in that range.</p> <p>22 Q. Okay. So I think you testified earlier that</p> <p>23 the -- the shorthand for expressing fighter</p> <p>24 compensation that you tended to use was a number for</p> <p>25 show and a number for win. And it would be expressed</p>
<p style="text-align: right;">335</p> <p>1 SILVA</p> <p>2 right -- is that right?</p> <p>3 A. Correct.</p> <p>4 Q. Do you have a sense as to which fighters or</p> <p>5 the reasons for Dana White or Fertitta to handle the</p> <p>6 negotiations as opposed to you or Shelby?</p> <p>7 A. I would say the majority of contracts were</p> <p>8 handled by me and Sean Shelby, but a couple things</p> <p>9 could affect that. Once fighters started getting</p> <p>10 into deals that were maybe out of the norm or a</p> <p>11 larger than normal jump in compensation or different</p> <p>12 terms and all, then we would refer it to them. It's</p> <p>13 like, hey, do you want to handle this.</p> <p>14 But even earlier on, even outside of that,</p> <p>15 it could be if a fighter knew them, somehow got them</p> <p>16 and said, hey, I'd like to talk to you, and they just</p> <p>17 felt like having that relationship with the fighter.</p> <p>18 Q. Okay.</p> <p>19 A. So it wasn't always higher guys, but most of</p> <p>20 the time it was people who had been in UFC for a</p> <p>21 while and maybe were up looking for a contract that</p> <p>22 was out of the norm.</p> <p>23 Q. Meaning the -- the payment would be</p> <p>24 significantly higher than the normal payments?</p> <p>25 A. Correct. Or if -- asking if they are</p>	<p style="text-align: right;">337</p> <p>1 SILVA</p> <p>2 something like 10 and 10; is that right?</p> <p>3 A. Correct.</p> <p>4 Q. And 10 and 10 would mean 10,000 to show,</p> <p>5 10,000 if you win?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. So if a fighter under a 10 and 10</p> <p>8 deal fought a bout and lost, they'd get 10,000?</p> <p>9 A. Correct.</p> <p>10 Q. And if the fighter under a 10 and 10 deal</p> <p>11 fought and won, they'd get 20,000?</p> <p>12 A. Correct.</p> <p>13 Q. Okay. And that would -- that would be the</p> <p>14 only bout compensation -- a fighter under a 10 and 10</p> <p>15 deal for a particular fight, that would be the only</p> <p>16 bout compensation that Zuffa was required to pay</p> <p>17 absent some side agreement; is that right?</p> <p>18 A. Yes.</p> <p>19 Q. So there's sometimes bonuses that Zuffa</p> <p>20 pays, but those were discretionary; is that right?</p> <p>21 A. Correct.</p> <p>22 Q. Okay. And there were some times when Zuffa</p> <p>23 had side agreements with fighters, letters of</p> <p>24 agreements with fighters, to potentially designate</p> <p>25 some additional compensation for a fight; is that</p>

<p style="text-align: right;">378</p> <p>1 SILVA</p> <p>2 Q. So I think it's Lorenzo and Shelby.</p> <p>3 And Schaub was a UFC fighter; is that right?</p> <p>4 A. Correct.</p> <p>5 Q. And in your opinion, he was asking to be</p> <p>6 paid more than fighters who were highly ranked than</p> <p>7 him?</p> <p>8 A. That I thought had accomplished more than he</p> <p>9 had.</p> <p>10 Q. And so because he was asking to be paid sort</p> <p>11 of out of the level that you thought should be paid</p> <p>12 to comparable fighters, you were saying that he</p> <p>13 should not get the amount that he asked for; is that</p> <p>14 right?</p> <p>15 A. Yes. That was my opinion.</p> <p>16 Q. What ended up happening, do you know?</p> <p>17 A. I think that he ended up signing a new deal</p> <p>18 and fighting after that, but I -- I'd have to look.</p> <p>19 There was a time when he was not -- ended up not</p> <p>20 fighting for us, but I don't recall if it was at the</p> <p>21 end of this or not. I don't recall --</p> <p>22 Q. Okay.</p> <p>23 A. -- the time frame.</p> <p>24 Q. All right. You can put that aside.</p> <p>25 And I believe you testified that the</p>	<p style="text-align: right;">380</p> <p>1 SILVA</p> <p>2 contract, it's just faster to put them back in there</p> <p>3 quickly than if you're starting from scratch. So you</p> <p>4 just always knew. It's like, as many of those guys</p> <p>5 that you have like that, the better to -- to keep the</p> <p>6 shows moving smoothly.</p> <p>7 Q. Was it your -- were you aware whether Shelby</p> <p>8 also in -- was -- strike that.</p> <p>9 Was it your understanding that Shelby also</p> <p>10 had a practice of negotiating after the third fight</p> <p>11 of a four-fight deal?</p> <p>12 A. I think we were somewhat similar. I think,</p> <p>13 for Sean's might have been a little bit different</p> <p>14 because before I retired, we were both matchmakers</p> <p>15 but I was doing more fights than he was. So he had</p> <p>16 less spots on the show, so he had to have even</p> <p>17 tighter rein over the amount of fighters that he had.</p> <p>18 So he might have been more willing to just have</p> <p>19 fighters fight out their deal because we were</p> <p>20 concerned about making sure not to have too many</p> <p>21 under contract. And he had less spots to play with</p> <p>22 on a show than I did.</p> <p>23 Q. I see.</p> <p>24 Who is Ryan Parsons?</p> <p>25 A. He's an MMA manager.</p>
<p style="text-align: right;">379</p> <p>1 SILVA</p> <p>2 standard Zuffa contract was for four bouts, but that</p> <p>3 you typically renegotiated before the last fight?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And is it fair to say that fighters</p> <p>6 rarely fought out the last fight in their contract</p> <p>7 without negotiating a new contract?</p> <p>8 A. No, it would happen. More times than not</p> <p>9 they would want a new deal. But they -- there</p> <p>10 were certainly -- there's lots of examples of people</p> <p>11 who just, no, I'm going to do it.</p> <p>12 Even Roy Nelson in that aforementioned fight</p> <p>13 with Stipe, that was his last fight under contract.</p> <p>14 He lost to Stipe and they still signed him to a new</p> <p>15 deal.</p> <p>16 Q. And when you -- you're describing your --</p> <p>17 your practice of negotiating after the third fight</p> <p>18 before the last fight in a contract. Was that an</p> <p>19 informal Zuffa policy, to your understanding, or</p> <p>20 that's just something that you did, that was just</p> <p>21 your practice?</p> <p>22 A. I think it was kind of informal. But</p> <p>23 there's an -- that you have a bunch of shows that</p> <p>24 you're doing, and there's constant dropouts, so speed</p> <p>25 became paramount, and if somebody is already under</p>	<p style="text-align: right;">381</p> <p>1 SILVA</p> <p>2 Q. And was he a representative for Patrick</p> <p>3 Cummins?</p> <p>4 A. Yes.</p> <p>5 MR. CRAMER: All right. I'd like to mark</p> <p>6 as Silva Exhibit 39 the next document.</p> <p>7 (Silva Deposition Exhibit 39 marked for</p> <p>8 identification.)</p> <p>9 Q. So at the top of this -- this e-mail is</p> <p>10 dated May 5th, 2015, the one at the top. This --</p> <p>11 this is a one-page document with two e-mails with the</p> <p>12 Bates number ZFL-0977248. And there's an e-mail from</p> <p>13 you to Mr. Parsons.</p> <p>14 Did you send that e-mail?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And you write: "I'm not" -- "I'm not</p> <p>17 locking him into a long term deal."</p> <p>18 And you say: "It's just a 4 fight deal and</p> <p>19 I always renegotiate before the last fight just like</p> <p>20 I am doing now. So 3 fights and we talk again."</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. So this is an instance of you enacting your</p> <p>24 practice of negotiating before the last fight; is</p> <p>25 that right?</p>

<p style="text-align: right;">382</p> <p>1 SILVA</p> <p>2 A. Correct.</p> <p>3 Q. And here you only wanted a -- here you were</p> <p>4 asking the fighter to fight a deal -- to sign a</p> <p>5 four-fight deal and then you would again enact your</p> <p>6 practice and negotiate after three fights?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. So let's say a fighter is on a --</p> <p>9 fought his -- won his first three fights on an 8/8</p> <p>10 contract, he would be due 14/14 for the fourth fight</p> <p>11 typically?</p> <p>12 A. I'm not --</p> <p>13 Q. Fought three, 8/8, 10/10, 12/12, the up --</p> <p>14 the next fight would be 14/14?</p> <p>15 A. Correct.</p> <p>16 Q. Okay. But to get a fighter to re-up for</p> <p>17 another four-fight deal, you'd come to them after the</p> <p>18 third fight and offer to pay them a higher amount for</p> <p>19 what would have been their fourth fight?</p> <p>20 A. Correct.</p> <p>21 Q. And you make that the first fight of the</p> <p>22 next contract?</p> <p>23 A. That's correct.</p> <p>24 Q. Okay. And in return, he would be obligated</p> <p>25 for three more fights with Zuffa than were obligated</p>	<p style="text-align: right;">384</p> <p>1 SILVA</p> <p>2 some go, no, I -- I'd just like to fight this out and</p> <p>3 then see what I can get outside of it.</p> <p>4 Q. The vast majority re-up under a new deal;</p> <p>5 correct?</p> <p>6 MR. ISAACSON: Objection. Form.</p> <p>7 A. I don't know that I would say vast, but I</p> <p>8 would say the majority.</p> <p>9 Q. Okay. And between the third and the fourth</p> <p>10 fight, the only number against which Zuffa had to bid</p> <p>11 was the last number in the prior contract; right?</p> <p>12 There's no outside bidder at that time;</p> <p>13 correct?</p> <p>14 A. Correct. They're still under an exclusive</p> <p>15 contract.</p> <p>16 Q. And by extending -- by -- by enacting this</p> <p>17 practice and renegotiating between the third and the</p> <p>18 fourth fight, Zuffa would ensure that the fighter</p> <p>19 wouldn't reach the end of their deal; right? They'd</p> <p>20 now be fighting the first fight of a new deal;</p> <p>21 correct?</p> <p>22 A. They would be fighting the first fight of a</p> <p>23 new deal.</p> <p>24 Q. And so through this practice, Zuffa is able</p> <p>25 to hold onto fighters that it wants without having to</p>
<p style="text-align: right;">383</p> <p>1 SILVA</p> <p>2 under the initial contract; is that right?</p> <p>3 A. Correct.</p> <p>4 Q. Okay. And it's fair to say that during the</p> <p>5 period between the third and the fourth fight, the</p> <p>6 fighter would not be permitted to negotiate a deal</p> <p>7 with another promotion; right?</p> <p>8 A. Correct.</p> <p>9 Q. So by negotiating with fighters before their</p> <p>10 contracts expired, Zuffa ensured that it was the only</p> <p>11 bidder for those fighter's services during that</p> <p>12 period; correct?</p> <p>13 MR. ISAACSON: Objection. Form.</p> <p>14 Argumentative.</p> <p>15 A. Yeah, I mean, they're still under contract.</p> <p>16 I couldn't do that with any of Bellator's fighters or</p> <p>17 anybody else's, too, if their contract is not up. If</p> <p>18 their contract's not up, I'm saying you've got</p> <p>19 another fight, would you like to? And you have the</p> <p>20 option not to. And people have certainly taken that</p> <p>21 option.</p> <p>22 But a lot of people also like more money.</p> <p>23 It's like, I'm going to fight in the UFC again, I</p> <p>24 still have a fight, I could do it for less money or</p> <p>25 more money, I -- I like the idea of more money. But</p>	<p style="text-align: right;">385</p> <p>1 SILVA</p> <p>2 match or beat the offers of other MMA promotions;</p> <p>3 correct?</p> <p>4 A. As I stated earlier, it was more about being</p> <p>5 able to do things quickly that we could -- we have a</p> <p>6 lot of promotional deadlines as -- as far as if I</p> <p>7 need somebody to be able to step in and fight in a</p> <p>8 main event or a co-main event, the lead time that you</p> <p>9 need for advertising and putting pieces together is</p> <p>10 very fast, and that's easier to do if a fighter is</p> <p>11 under contract with you than if they're not. And --</p> <p>12 and that holds up that process. With the amount of</p> <p>13 shows that we do, that became of paramount</p> <p>14 importance.</p> <p>15 Q. If a fighter refused to accept the new deal</p> <p>16 that you were offering them between the third and the</p> <p>17 fourth fight, he would face a situation where he was</p> <p>18 fighting that last fight at less compensation than he</p> <p>19 would have gotten had he accepted the new deal;</p> <p>20 correct? In other words --</p> <p>21 A. Yes, he chose to fight at less money.</p> <p>22 Q. Right. So the -- the fighter would have --</p> <p>23 in order to fight that fourth fight on the initial</p> <p>24 contract, the existing contract, the fighter would</p> <p>25 need to decide to take less money for that last fight</p>

<p style="text-align: right;">386</p> <p>1 SILVA</p> <p>2 than if they decided to re-up for a new four-fight</p> <p>3 deal; right?</p> <p>4 A. If that's what they agreed to.</p> <p>5 Q. Right. But --</p> <p>6 A. If there was no offer made, that's still</p> <p>7 what they would be fighting for.</p> <p>8 Q. Right. So if the last fight on the first</p> <p>9 deal is 14/14, you would go to that fighter and say,</p> <p>10 Let's scrap the 14/14, let's get a new four-fight</p> <p>11 deal and we'll make the first -- the next fight</p> <p>12 16/16?</p> <p>13 A. Yes.</p> <p>14 Also I -- I should say that we've had</p> <p>15 numerous fighters, and Sean more than I, because</p> <p>16 of -- like I said, of him having less spaces to work</p> <p>17 with, where he did not bring them a deal and they</p> <p>18 came to him. "Wait, we're -- we've only got one</p> <p>19 fight left, why don't you make us a new offer?"</p> <p>20 We do get a fair share of those. If I'm in</p> <p>21 that situation, it's like, man, you know what, I do</p> <p>22 just have too many people in this weight class. I</p> <p>23 am -- you know, this guy's had fair to middling</p> <p>24 results, I'm just going to let him fight it out, and</p> <p>25 they'll come to me going, no, I -- I would like more</p>	<p style="text-align: right;">388</p> <p>1 SILVA</p> <p>2 A. If I had time to prepare, I'm sure I can</p> <p>3 pull up multiple ones for you.</p> <p>4 Q. Would you agree with me, though, from a</p> <p>5 fighter's perspective, fighting the last fight of a</p> <p>6 four-fight deal and fighting the first fight --</p> <p>7 strike that.</p> <p>8 MR. ISAACSON: Good time for a break?</p> <p>9 MR. CRAMER: All right. Let's take a</p> <p>10 break.</p> <p>11 THE VIDEOGRAPHER: Off the record at 4:34.</p> <p>12 (Recess taken at 4:34 p.m., proceedings</p> <p>13 resumed at 4:47 p.m.)</p> <p>14 THE VIDEOGRAPHER: We are back on the</p> <p>15 record at 4:47.</p> <p>16 MR. CRAMER: I'd like to mark the next</p> <p>17 document as Silva 40.</p> <p>18 (Silva Deposition Exhibit 40 marked for</p> <p>19 identification.)</p> <p>20 BY MR. CRAMER:</p> <p>21 Q. Silva 40 is a series of e-mails bearing the</p> <p>22 Bates range ZFL-0876778 through 780. The only thing</p> <p>23 I wanted to do is draw your attention to the e-mail</p> <p>24 that you sent to Audie Attar regarding Jake</p> <p>25 Matthews --</p>
<p style="text-align: right;">387</p> <p>1 SILVA</p> <p>2 money, I'd like to do a new deal. So it also -- they</p> <p>3 saw a benefit quite often.</p> <p>4 Q. Right. So fighters saw a benefit. One</p> <p>5 benefit of signing a new deal is that they would make</p> <p>6 more money for that next fight; correct?</p> <p>7 A. Correct.</p> <p>8 Q. Another benefit of that new deal would be</p> <p>9 that if they rejected that new deal, they could risk</p> <p>10 being seen as disloyal to the UFC; correct?</p> <p>11 A. No.</p> <p>12 Q. No?</p> <p>13 Rejecting a new deal doesn't risk the</p> <p>14 leadership of UFC as seeing that person as</p> <p>15 potentially disloyal or a problem?</p> <p>16 A. No. I would say that Roy Nelson was quite</p> <p>17 the problem, and lost and got a big raise anyways --</p> <p>18 Q. Well --</p> <p>19 A. -- after his contract was up, after he</p> <p>20 fought and lost his last fight on his contract. So</p> <p>21 we've demonstrated that that's not.</p> <p>22 Q. So you did it once?</p> <p>23 A. We've done it many times. That's one that I</p> <p>24 can remember off the top of my head.</p> <p>25 Q. Can you remember any other times?</p>	<p style="text-align: right;">389</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. -- on June 8, 2015. Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. Jake Matthews was a UFC fighter; is that</p> <p>6 right?</p> <p>7 A. Correct.</p> <p>8 Q. And Audie Attar was his representative?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And this is an example of you</p> <p>11 approaching the fighter who's on the last fight of a</p> <p>12 deal?</p> <p>13 A. Yes.</p> <p>14 Q. So it says: "Jake is on his last fight at</p> <p>15 12 plus 12. I'll drop that and give him 15/15."</p> <p>16 Do you mean 158/18?</p> <p>17 A. I just liked him so much, I thought he</p> <p>18 deserved a bump in that -- yeah, no, that was a typo,</p> <p>19 which we addressed.</p> <p>20 Q. Yeah. So it's 18/18, 21/21 and 24/24; is</p> <p>21 that right?</p> <p>22 A. Correct.</p> <p>23 Q. So this is an instance where you approached</p> <p>24 Matthews' representative, he was on the last fight of</p> <p>25 a deal that would have paid him 12/12, and you said</p>

<p style="text-align: right;">390</p> <p>1 SILVA</p> <p>2 if you drop that and sign a new four -- four-fight</p> <p>3 deal, that next fight would be at 15/15; is that</p> <p>4 right?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. You can put that aside.</p> <p>7 MR. CRAMER: Like to mark the next</p> <p>8 document as Silva Exhibit 41.</p> <p>9 (Silva Deposition Exhibit 41 marked for</p> <p>10 identification.)</p> <p>11 Q. Silva 41 is a two-page series of e-mails</p> <p>12 bearing the Bates range ZFL-2643298 through 299.</p> <p>13 This is a November 2008 e-mail exchange between you,</p> <p>14 Tracy Hyman, Michael Mersch and Lawrence Epstein; is</p> <p>15 that right?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And this -- the "re" line is Serra</p> <p>18 and Hughes. They were both UFC fighters; is that</p> <p>19 right?</p> <p>20 A. Correct.</p> <p>21 Q. And both were former champions; is that</p> <p>22 right?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. On the second page of the document</p> <p>25 there is an e-mail that starts at the bottom of the</p>	<p style="text-align: right;">392</p> <p>1 SILVA</p> <p>2 Q. Having it run out before they can fight?</p> <p>3 A. Correct.</p> <p>4 Q. So you extended the term of the contract for</p> <p>5 six months or for however long they were sitting out;</p> <p>6 is that right?</p> <p>7 A. Yes, for however long they were sitting out.</p> <p>8 Q. And then Hyman, on page 1, responds to you</p> <p>9 on November 25, 2008, about the extensions, and she</p> <p>10 says: "Hughes does. Serra doesn't. He has a new</p> <p>11 agreement out though. When he signs, the time</p> <p>12 doesn't begin to run on his agreement until he fights</p> <p>13 his first" -- "his first first."</p> <p>14 A. Yes. Supposed to be first fight.</p> <p>15 Q. His first fight.</p> <p>16 So let me ask you this. Is it fair to say</p> <p>17 that the way Zuffa's agreements work is that they're</p> <p>18 executed on one day, but the term of the agreement</p> <p>19 doesn't start until the first fight?</p> <p>20 A. That's correct.</p> <p>21 Q. But it's fair to say that the contract</p> <p>22 becomes exclusive between Zuffa and the fighter from</p> <p>23 the day it is signed; correct?</p> <p>24 A. Correct.</p> <p>25 Q. So that the actual term of the contract as</p>
<p style="text-align: right;">391</p> <p>1 SILVA</p> <p>2 first page from you, dated November 25, 2008, to</p> <p>3 Hyman, cc to Epstein and Mersch.</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. So you sent this e-mail; is that right?</p> <p>7 A. Yes.</p> <p>8 Q. And you said: "Due to Hughes' knee injury</p> <p>9 and Serra's wife giving birth, both guys have been on</p> <p>10 the shelf for a while."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And then you said: "It looks like</p> <p>14 they will now end up fighting each other April or</p> <p>15 May. Just want to make sure they both have extension</p> <p>16 notices out."</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. What did you mean by "extension notices"?</p> <p>20 A. To make sure that -- they are saying that</p> <p>21 they cannot participate in a fight due to injury and</p> <p>22 due to the birth of a child. So knowing they've been</p> <p>23 under contract for a while, to make sure that we</p> <p>24 weren't going to breach that contract by just having</p> <p>25 it go up before they can fight.</p>	<p style="text-align: right;">393</p> <p>1 SILVA</p> <p>2 opposed to the defined term is different; right?</p> <p>3 So if you sign the contract on day one but</p> <p>4 you don't fight for three months later, the term</p> <p>5 doesn't start until three months later?</p> <p>6 A. That's my understanding. I didn't draft the</p> <p>7 contract.</p> <p>8 Q. Okay. All right. In the middle of the</p> <p>9 first page, you respond to Ms. Hyman's e-mail to you</p> <p>10 and cc'ing Epstein and Mersch on November 25th, 2008.</p> <p>11 You say: "I trust Serra but it is always a bad</p> <p>12 position for us to be in counting on that new</p> <p>13 agreement while time is ticking away on the old one.</p> <p>14 If they decide not to sign it we are in a bad</p> <p>15 position so let's get it back ASAP."</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. And you wrote that?</p> <p>19 A. I did.</p> <p>20 Q. And can you explain to me why it would be in</p> <p>21 a -- why UFC would be in a bad position in the</p> <p>22 circumstance here where there's a new agreement out</p> <p>23 but time is ticking away on the old one?</p> <p>24 A. Because their fight had been announced,</p> <p>25 because they had coached against each other on</p>

<p style="text-align: right;">394</p> <p>1 SILVA</p> <p>2 The Ultimate Fighter, so the fight was already</p> <p>3 promised. The fight's out, but yet if he chose to,</p> <p>4 Serra could choose to let his old contract just</p> <p>5 expire and have no obligation to do that fight.</p> <p>6 Q. You say: "It's always a bad position for us</p> <p>7 to be in counting on that new agreement while time is</p> <p>8 ticking away on the old one."</p> <p>9 Is what you meant there that you'd rather</p> <p>10 have a new agreement executed before the old one</p> <p>11 expires?</p> <p>12 A. Well, if -- when it's a situation where you</p> <p>13 have an already announced fight, which was here,</p> <p>14 that's definitely not a good situation. You --</p> <p>15 you're not going to possibly deliver on something you</p> <p>16 promised publicly.</p> <p>17 Q. So Zuffa doesn't want to be embarrassed by</p> <p>18 publicly promising a fight and then not having the</p> <p>19 fight happen?</p> <p>20 A. Yes.</p> <p>21 Q. Is it also the case, though, that one of the</p> <p>22 reasons why you try -- it's your practice to try to</p> <p>23 negotiate with a fighter after the third fight in a</p> <p>24 four-fight deal, is to not be in a situation where a</p> <p>25 contract is expiring without a new one having been</p>	<p style="text-align: right;">396</p> <p>1 SILVA</p> <p>2 Connette dated November 16, 2011.</p> <p>3 A. Uh-huh.</p> <p>4 Q. And Mersch says in the second paragraph:</p> <p>5 "Before someone fights for a UFC championship we</p> <p>6 would likely have them locked into a longer term</p> <p>7 deal. Additionally, if a fighter is successful under</p> <p>8 a 4 fight deal, we typically negotiate a new</p> <p>9 agreement after the 3rd fight so he never will see</p> <p>10 the end of his contract and, assuming the fighter is</p> <p>11 successful, or at least competitive, that is the</p> <p>12 process that will continue thereafter."</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. Is -- is Mr. Mersch accurately describing</p> <p>16 the practice at Zuffa with regard to renegotiating</p> <p>17 contracts after the third fight and before the fourth</p> <p>18 fight?</p> <p>19 A. That's not how I would put it.</p> <p>20 Q. So Mersch puts it differently than you</p> <p>21 would?</p> <p>22 A. Yes.</p> <p>23 Q. All right. You can put that document aside.</p> <p>24 MR. CRAMER: I'd like to mark the next</p> <p>25 document as Silva Exhibit 43.</p>
<p style="text-align: right;">395</p> <p>1 SILVA</p> <p>2 signed?</p> <p>3 A. That's not as much of a problem unless we</p> <p>4 didn't get them their number of fights. Then we</p> <p>5 would have to pay them for whatever unfulfilled. If</p> <p>6 it expired and there were still fights left on their</p> <p>7 contract, we would be responsible to still pay them</p> <p>8 for the fights we did not get them before expiration.</p> <p>9 Q. All right. You can put that document aside.</p> <p>10 MR. CRAMER: All right. I'd like to mark</p> <p>11 as the next document Silva Exhibit 42.</p> <p>12 (Silva Deposition Exhibit 42 marked for</p> <p>13 identification.)</p> <p>14 Q. Silva 42 is a November 2011 e-mail exchange</p> <p>15 between Michael Mersch and Michael Connette, it bears</p> <p>16 the Bates range ZFL-1404974 through 4978.</p> <p>17 I believe I asked you this before, but</p> <p>18 Connette was a representative for UFC fighter Mark</p> <p>19 Hunt; is that right?</p> <p>20 A. Yeah. I believe it's Connette.</p> <p>21 Q. Connette. So Connette was a representative</p> <p>22 for Hunt?</p> <p>23 A. Yes.</p> <p>24 Q. Turn to the bottom of the third page of this</p> <p>25 series of e-mails. There's an e-mail from Mersch to</p>	<p style="text-align: right;">397</p> <p>1 SILVA</p> <p>2 (Silva Deposition Exhibit 43 marked for</p> <p>3 identification.)</p> <p>4 Q. Silva 43 is a one-page series of e-mails</p> <p>5 dated [sic] ZFL-14121551. The e-mail at the bottom</p> <p>6 of the page is from Cesar Gracie dated Tuesday,</p> <p>7 April 20, 2010. It's to Mr. Silva, and the subject</p> <p>8 is Nick Diaz.</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. And you received that e-mail?</p> <p>12 A. Yes.</p> <p>13 Q. And Nick Diaz was a UFC fighter?</p> <p>14 A. Yes.</p> <p>15 Q. And you were making -- I'm sorry.</p> <p>16 And Mr. Gracie, on behalf of Nick Diaz, was</p> <p>17 negotiating with you for a new contract; is that</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 Q. And he requests 33/33, 36/36, and 39/39, or</p> <p>21 alternatively a one-year contract at 42/42.</p> <p>22 Do you see that?</p> <p>23 A. No. He's saying he wants the -- the three</p> <p>24 fights he doesn't think we can get him more than a</p> <p>25 year, so it would be that much for a year. But if</p>

<p style="text-align: right;">398</p> <p>1 SILVA</p> <p>2 you could get him a fourth fight, we'd do that at 42</p> <p>3 plus 42.</p> <p>4 Q. I see.</p> <p>5 A. That's what he's saying.</p> <p>6 Q. I see.</p> <p>7 And then he says: "These numbers are</p> <p>8 substantially less than what Strikeforce will offer."</p> <p>9 Do you see that?</p> <p>10 A. Yes, that's what he's saying.</p> <p>11 Q. And then you say to White and Fertitta right</p> <p>12 above that -- you forward the below e-mail on</p> <p>13 April 20th, 2010, you say: "Do we let Strikeforce</p> <p>14 pay him 48,000 plus 48,000" -- excuse me -- "or do we</p> <p>15 give them what they want? He was making 24 plus 24.</p> <p>16 I offered 27/27, 30/30, 33/33, 36/36."</p> <p>17 Do you see that?</p> <p>18 A. Yes. Yeah.</p> <p>19 Q. And then Mr. Fertitta responds to you on</p> <p>20 April 20 at 7:39 p.m., he says: "So I guess we will</p> <p>21 hang tight at the number offered. He should be</p> <p>22 willing to take less money from us."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Do you have an understanding about why</p>	<p style="text-align: right;">400</p> <p>1 SILVA</p> <p>2 comeback, and then you say: "If they turn it down I</p> <p>3 put him in a prelim against a really tough guy for</p> <p>4 his last fight."</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. So you're saying that if Diaz turns down the</p> <p>8 offer which was being made before Diaz's last fight,</p> <p>9 you were going to put him at a really bad position on</p> <p>10 a card against a tough fight -- tough guy?</p> <p>11 A. It's not in a bad position on the card.</p> <p>12 Everybody has to -- if you want to fight in a show,</p> <p>13 you only have so many positions, so you're going to</p> <p>14 be somewhere. But I'm -- am I going to give that</p> <p>15 spotlight more to somebody who I'm already building</p> <p>16 their next fight or somebody fighting their last</p> <p>17 fight. You have to make that choice.</p> <p>18 If he agreed to sign the deal, I still have</p> <p>19 to decide where to put him. That they still could be</p> <p>20 in the prelims. On a Pay-Per-View, you only have 5</p> <p>21 main hard fights out of 13. So outside of those 5</p> <p>22 bout -- main fight -- bout fights, the rest are</p> <p>23 prelims. The majority of fights are prelims. To go,</p> <p>24 you're going to put him in a really bad position,</p> <p>25 doesn't make sense.</p>
<p style="text-align: right;">399</p> <p>1 SILVA</p> <p>2 Mr. Fertitta thought that Mr. Diaz would be willing</p> <p>3 to take less money from the UFC than from</p> <p>4 Strikeforce?</p> <p>5 A. Well, he explains it in the next --</p> <p>6 MR. ISAACSON: Objection. Calls for</p> <p>7 speculation.</p> <p>8 A. Explains it in the next sentence.</p> <p>9 Q. What was it? What does he say?</p> <p>10 A. Says: He got five structured bonuses in his</p> <p>11 last eight fights plus discretionary totaling</p> <p>12 \$250,000, which he won't get in Strikeforce.</p> <p>13 So he's saying he made bonus money in</p> <p>14 addition over the -- what he would have got in</p> <p>15 Strikeforce.</p> <p>16 Q. I see. So Strikeforce might guarantee him</p> <p>17 more, but --</p> <p>18 A. Right.</p> <p>19 Q. -- but in the UFC, you'll have the</p> <p>20 opportunity to get discretionary bonuses?</p> <p>21 A. And he had a history of making.</p> <p>22 Q. Okay. And then you respond to White and</p> <p>23 Fertitta on April 20, 2010: "I lowballed them on</p> <p>24 purpose the first offer knowing they would turn it</p> <p>25 down. How about I come back with" -- and you list a</p>	<p style="text-align: right;">401</p> <p>1 SILVA</p> <p>2 Q. Well, you say -- you're offering him a deal</p> <p>3 before the last fight, and he has the option at this</p> <p>4 point to take the deal or fight that last fight under</p> <p>5 the old contract; and you say if he does, he turns it</p> <p>6 down --</p> <p>7 A. Uh-huh.</p> <p>8 Q. -- you'll put him in a prelim against a</p> <p>9 really tough guy for his last fight; right?</p> <p>10 A. Right. Which he's only fought really tough</p> <p>11 guys. So what I'm specifying is this. Won't be on</p> <p>12 the main card, because we have no commitment from him</p> <p>13 for future, and -- but letting him know, just because</p> <p>14 it's not on the main card, he's still going to fight</p> <p>15 a real guy. It's not like, oh, it's a prelim, he's</p> <p>16 going to fight somebody unworthy. It's like, no,</p> <p>17 he's going to fight somebody really tough. And if</p> <p>18 you look at his record before and after, he's always</p> <p>19 fought really tough guys.</p> <p>20 Q. So in exchange for Diaz not giving you and</p> <p>21 the UFC a commitment to -- to re-up on a new</p> <p>22 contract, you're going to -- you're going to put him</p> <p>23 in a prelim and still give him a tough guy, is that</p> <p>24 right, to fight?</p> <p>25 A. He's only ever fought tough guys even when</p>

<p style="text-align: right;">402</p> <p>1 SILVA</p> <p>2 he fought in the prelims before, so, yes, it would</p> <p>3 not be different or unusual.</p> <p>4 Q. And so your testimony here today, under</p> <p>5 oath, is that when you said, if they turn it down, I</p> <p>6 put him in a prelim against a really tough guy for</p> <p>7 his fight, you did not mean that that would be in a</p> <p>8 sense punitive for him turning down the deal?</p> <p>9 A. It's not punitive.</p> <p>10 Q. Is your testimony also that if he accepted</p> <p>11 the deal, you would still put him in a prelim against</p> <p>12 a really tough guy for his last fight?</p> <p>13 A. No. Then he'd fight a really tough guy, but</p> <p>14 most likely be featured, because we have future</p> <p>15 fights with him to promote him.</p> <p>16 Q. So fighters -- it's fair to say that a</p> <p>17 fighter who was offered a deal before their last</p> <p>18 fight, reasonably anticipate that if they don't</p> <p>19 accept that deal before their last fight, they would</p> <p>20 be in a worse position than if they accept the deal,</p> <p>21 not just because they get paid less money for that</p> <p>22 last fight, but also because their not giving Zuffa a</p> <p>23 commitment meant that Zuffa was not going to give</p> <p>24 them a favored position on a card; is that fair?</p> <p>25 A. No. It just depends on the circumstance.</p>	<p style="text-align: right;">404</p> <p>1 SILVA</p> <p>2 everything's fine, he's not on his last fight, he's</p> <p>3 just on his regular one, some cards are very good and</p> <p>4 you are agonizing over who goes where, who gets those</p> <p>5 main card slots or not. And that Sean has fighters</p> <p>6 of his and he wants to get them face time, make them</p> <p>7 seem important and put there, so I'm trying to take</p> <p>8 his needs into consideration. Who does Dana think is</p> <p>9 main-card worthy. Who does Lorenzo.</p> <p>10 There's a lot that goes into it. So we</p> <p>11 have -- but we have shown that in the past there's</p> <p>12 people who are in this situation still ended up main</p> <p>13 card, and there's ones who didn't. It just depends</p> <p>14 on the situation.</p> <p>15 Q. But all things being equal, you'd more</p> <p>16 likely give someone a better position on a card if</p> <p>17 they agree to commit to more fights and to a --</p> <p>18 another contract than if they don't; right?</p> <p>19 A. If they're name -- name worthy enough to be</p> <p>20 on the main card.</p> <p>21 Q. Right. So if --</p> <p>22 A. And somewhere on the bubble.</p> <p>23 Q. So someone who's name worthy enough to be on</p> <p>24 the main card, all things being equal, you'd give</p> <p>25 them the better position relative to others if they</p>
<p style="text-align: right;">403</p> <p>1 SILVA</p> <p>2 That was this particular circumstance. As with the</p> <p>3 Roy Nelson circumstance, he still fought, might have</p> <p>4 been a co-main event. It just depends on the</p> <p>5 circumstance of the card.</p> <p>6 On this particular card, it was a strong</p> <p>7 card. On the one that Roy Nelson was, it was not a</p> <p>8 strong card, so it's like, well, there is still</p> <p>9 space. We're not going to be punitive and cut off</p> <p>10 our nose to spite our face and put him on a prelim on</p> <p>11 a card that's not as strong.</p> <p>12 On this particular card, it was a strong</p> <p>13 card, and it's like, yeah, it's not hurting us for</p> <p>14 him to be -- he'd be the main event of the prelims,</p> <p>15 which is still a good position, that's a fight that</p> <p>16 would be on FS1 and seen by over a million people.</p> <p>17 And then you still could get that -- that they</p> <p>18 advertise that, so you still could get promotion out</p> <p>19 of it. But it's like, am I going to put him over the</p> <p>20 other five guys on a strong card with no commitment</p> <p>21 to him. It's like, I'd rather use that time on the</p> <p>22 guys that I do.</p> <p>23 Q. Have a commitment on --</p> <p>24 A. And you always -- and each one, you still</p> <p>25 have to make that choice. Even when he -- if</p>	<p style="text-align: right;">405</p> <p>1 SILVA</p> <p>2 agreed to commit to another contract than if they</p> <p>3 didn't agree; correct?</p> <p>4 A. Depending on the card.</p> <p>5 Q. Depending on the card.</p> <p>6 But all things equal. So everything's</p> <p>7 equal. What --</p> <p>8 A. Anytime everything's equal, anything that's</p> <p>9 unequal makes the difference.</p> <p>10 Q. Right. And so this is something that would</p> <p>11 make the difference; right?</p> <p>12 So everything's equal. And the only thing</p> <p>13 you know now is that this guy's main card worthy and</p> <p>14 he has agreed to re-up, versus, it's the same</p> <p>15 situation, main card worthy where he's not agreed to</p> <p>16 re-up. You'd more likely give the main card in a</p> <p>17 better position to the guy who has agreed to re-up as</p> <p>18 opposed to the one who hasn't; right?</p> <p>19 A. Yes.</p> <p>20 Q. All right. You can put that document aside.</p> <p>21 By the way, did you tell Mr. Diaz or his</p> <p>22 representative that if they did not re-sign a new</p> <p>23 contract what position they would get on the card?</p> <p>24 A. I don't recall.</p> <p>25 Q. Was it the case that sometimes you, in the</p>

<p style="text-align: right;">406</p> <p>1 SILVA</p> <p>2 course of negotiating with a fighter after their</p> <p>3 third fight and before the fourth fight, you would</p> <p>4 tell the representative, well, as an incentive to</p> <p>5 re-sign, we not only will pay you more but we'll give</p> <p>6 you a better position on a card for --</p> <p>7 A. Absolutely not.</p> <p>8 Q. Okay.</p> <p>9 A. Because I didn't have the authority to do</p> <p>10 that. And the card order would change constantly up</p> <p>11 to the last minute.</p> <p>12 So there were times where quite often it was</p> <p>13 left to my general discretion what the order of the</p> <p>14 card would be, but then Dana -- so I might even let</p> <p>15 somebody know, this is it, I've got no opposition, so</p> <p>16 this is there, but then Dana would go, no, I want --</p> <p>17 I want this this way. And then I'd have to go back</p> <p>18 and tell the person that could be very disappointed,</p> <p>19 so I stopped telling people, because I knew it -- it</p> <p>20 could change at any time.</p> <p>21 Especially with dropouts, which happen every</p> <p>22 show. It's very rare that we ever have a show where</p> <p>23 there's not dropouts, which reshuffles the lineup.</p> <p>24 So at any time your card position can</p> <p>25 change. So I went out of my way not to. And</p>	<p style="text-align: right;">408</p> <p>1 SILVA</p> <p>2 Zuffa extended a fighter's contract even though that</p> <p>3 fighter never turned down a fight based on injury?</p> <p>4 A. No. Well, you wouldn't have to turn down a</p> <p>5 fight, though, if you just let us know you're injured</p> <p>6 and can't fight. There would be no point in me</p> <p>7 offering you a fight. If you call me up today and</p> <p>8 go, hey, I just let -- letting you know I broke my</p> <p>9 arm, I'm not going to be available to fight; for me</p> <p>10 to call you the next day and offer you a fight would</p> <p>11 be silly.</p> <p>12 Q. I see. So if someone informs you that they</p> <p>13 are injured and can't fight, then you give them an</p> <p>14 injury extension?</p> <p>15 A. Exactly.</p> <p>16 Q. Okay.</p> <p>17 MR. CRAMER: I'd like to mark the next</p> <p>18 document as Silva Exhibit 44.</p> <p>19 (Silva Deposition Exhibit 44 marked for</p> <p>20 identification.)</p> <p>21 Q. So the Bates number was cut off in part.</p> <p>22 This is a one-page series of two e-mails with the</p> <p>23 Bates number COX-0041232. And this is Silva 44.</p> <p>24 Okay. This is a November 2012 e-mail</p> <p>25 exchange between you and Monte Cox. At the bottom of</p>
<p style="text-align: right;">407</p> <p>1 SILVA</p> <p>2 honestly, very few people asked.</p> <p>3 You'd have people ask if they were the main</p> <p>4 event. Because in a nontitle main event fight,</p> <p>5 especially, it's a five-round fight as opposed to a</p> <p>6 three-round fight. So there was very concrete reason</p> <p>7 why they would want to know that.</p> <p>8 But in general, I did not -- for a while I</p> <p>9 think maybe people were just curious. Well, where am</p> <p>10 I, when I could tell my family when they can expect</p> <p>11 to see my fight. And -- and there just came a time,</p> <p>12 it's like it's changed enough times, like, I</p> <p>13 really -- I can't commit. This is what it is for the</p> <p>14 moment, but it's subject to change.</p> <p>15 Q. Okay. I'd like to ask you about injury</p> <p>16 extensions. We talked a little bit about that.</p> <p>17 A. Yeah.</p> <p>18 Q. If you found out after the fact that a</p> <p>19 fighter had been injured, but the fighter never</p> <p>20 turned down a fight and never told you beforehand</p> <p>21 that he was injured, is it your understanding that</p> <p>22 you could extend their agreement for the period of</p> <p>23 injury?</p> <p>24 A. No.</p> <p>25 Q. So you don't know of any instance where</p>	<p style="text-align: right;">409</p> <p>1 SILVA</p> <p>2 the page on November 13, 2012, Mr. Cox sends you an</p> <p>3 e-mail with the subject, "Why are we getting an</p> <p>4 injury extension for Rich?"</p> <p>5 And that refers to Rich Franklin; is that</p> <p>6 right?</p> <p>7 A. Yes.</p> <p>8 Q. He was a UFC champion?</p> <p>9 A. Yes.</p> <p>10 Q. And Clare Wetton --</p> <p>11 A. Uh-huh.</p> <p>12 Q. -- who is she?</p> <p>13 A. She works in our Europe office.</p> <p>14 Q. All right. So she works in your Europe</p> <p>15 office. And on November 10, 2012, sends to you --</p> <p>16 you and some others, an e-mail, "Subject: Rich</p> <p>17 Franklin," "Importance: High," and says: "Rich</p> <p>18 Franklin has [REDACTED]</p> <p>19 [REDACTED]"</p> <p>20 And then Silva -- you say to Cox in response</p> <p>21 to his question why -- why are we getting an injury</p> <p>22 extension letter for Rich, you say: "They generate</p> <p>23 them automatically when a fighter is injured after a</p> <p>24 fight."</p> <p>25 Do you see that?</p>

<p style="text-align: right;">410</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. So it was the practice of Zuffa to generate</p> <p>4 an injury extension letter for fighters when Zuffa</p> <p>5 learned that the fighter had been injured after a</p> <p>6 fight; is that right?</p> <p>7 A. Correct.</p> <p>8 Q. And so if a fighter was injured after a</p> <p>9 fight, Zuffa would find out about it and then</p> <p>10 automatically issue the fighter an extension of six</p> <p>11 months or longer; is that right?</p> <p>12 A. I don't know what the duration of time was.</p> <p>13 Q. Okay. But they would get an extension of</p> <p>14 some length, some number of months?</p> <p>15 A. I believe if you had an injury, it was</p> <p>16 normally an open extension, because Tracy -- when I</p> <p>17 said, hey, Rich Franklin is going to fight on this</p> <p>18 date, it's like, well, he was sent an injury</p> <p>19 extension letter on this date, how long do you want</p> <p>20 to do it. And I would always just do it for the</p> <p>21 period of time in between fights.</p> <p>22 Q. I see. So --</p> <p>23 A. I would never ever personally max out any</p> <p>24 length of it. If he was out for two months and then</p> <p>25 he's going to fight, that's -- I go send it two</p>	<p style="text-align: right;">412</p> <p>1 SILVA</p> <p>2 across the board, okay, you're injured so it's six</p> <p>3 months.</p> <p>4 Q. Okay.</p> <p>5 A. And I would tend to go towards the lower</p> <p>6 side of how long you're out.</p> <p>7 Q. So just so I'm clear, Zuffa finds out that a</p> <p>8 fighter is injured the day after a fight, it</p> <p>9 automatically issues an injury extension to that</p> <p>10 fighter even if that fighter hasn't been offered</p> <p>11 another fight; is that right?</p> <p>12 A. Correct. That one, that was not always the</p> <p>13 policy, and I -- that's why I had to ask those</p> <p>14 multiple people and send e-mail, because I asked</p> <p>15 what's this about and -- and Clare was the one</p> <p>16 letting me know because she was handling medicals at</p> <p>17 the time, and saying, you know, Clare, yeah, it's --</p> <p>18 he got injured -- I called up about that and she's</p> <p>19 like, yeah, when we get -- when a fighter has a</p> <p>20 serious enough injury that he could not compete</p> <p>21 for -- you know, it's not going to be like a black</p> <p>22 eye or anything, it would have to be something that</p> <p>23 would keep him out of competition for a -- a while</p> <p>24 that they would generate an injury extension.</p> <p>25 Q. And you said the policy changed at some</p>
<p style="text-align: right;">411</p> <p>1 SILVA</p> <p>2 months.</p> <p>3 Q. So it ends when he fights or it ends --</p> <p>4 A. Yes.</p> <p>5 Q. -- when he announces to you that he's ready</p> <p>6 to fight?</p> <p>7 A. When he fights.</p> <p>8 Q. Okay. So let's say he's injured on</p> <p>9 January 1st and he announces to you that he's ready</p> <p>10 to fight on March 1st, and he fights on May 1st. So</p> <p>11 the injury extension is from January 1st to May 1st;</p> <p>12 is that right?</p> <p>13 A. I mean, it's also at my discretion. And</p> <p>14 that's why Tracy would ask me rather than just</p> <p>15 automatically setting it at a date. I would always</p> <p>16 try to be reasonable.</p> <p>17 If it turns out that I can, if he goes, I'm</p> <p>18 ready to go and I can fight, and I just don't have a</p> <p>19 fight lined up for him, I'm not going to make him do</p> <p>20 it for a long time. I would go, all right, well,</p> <p>21 give him this and just try to -- the main thing of it</p> <p>22 was just really, well, give us a fair amount of time</p> <p>23 to get him the fights that we owe him.</p> <p>24 That's why she checked with me in between</p> <p>25 each and every one, because it wasn't just straight</p>	<p style="text-align: right;">413</p> <p>1 SILVA</p> <p>2 point in time. So obviously in November of 2012 the</p> <p>3 policy, as you just described it --</p> <p>4 A. Right.</p> <p>5 Q. -- was in place?</p> <p>6 A. Correct. And I don't know how long that was</p> <p>7 before I became aware of it.</p> <p>8 Q. What was the policy before that?</p> <p>9 A. I don't -- I just was not aware of that.</p> <p>10 Usually injury extension would be either like I offer</p> <p>11 a fighter a fight and he would say no, I can't</p> <p>12 because I'm injured, or his manager would just call</p> <p>13 and let me know, hey, just letting you know he -- he</p> <p>14 injured himself.</p> <p>15 So somehow it became part of the medical</p> <p>16 process after a fight, when they examined the fighter</p> <p>17 and saw no, he's actually got a serious injury, we're</p> <p>18 going to -- it's impossible for him to accept a</p> <p>19 fight. So we're going to put out -- like, say if he</p> <p>20 fought every four months and he could fight within</p> <p>21 that four-month in -- window, there's a lot of them</p> <p>22 where I said no extension.</p> <p>23 Q. Before November 2012, though, it looks like</p> <p>24 afterwards there's automatic extension.</p> <p>25 A. No. But if they're open, which means</p>

<p style="text-align: right;">414</p> <p>1 SILVA</p> <p>2 there's not a time, they're just -- they'll send them</p> <p>3 an extension letter, but there's not a date because</p> <p>4 they don't know how long it will take him to recover,</p> <p>5 so they're just going, we're informing you that</p> <p>6 you're getting an injury extension and there is no</p> <p>7 date attached. That's why Tracy, when I say, hey,</p> <p>8 he's fighting, oh, there is an injury extension on</p> <p>9 him, what time do you want that to be.</p> <p>10 Q. Okay. But --</p> <p>11 A. And there's a decent amount of them where</p> <p>12 there's like no time. It didn't heal -- it healed</p> <p>13 quick, he fought within a regular window of time.</p> <p>14 Q. So they get an injury extension letter, but</p> <p>15 that, in some cases, did not extend the term of the</p> <p>16 contract?</p> <p>17 A. Yes. It was just letting -- making them</p> <p>18 aware of like, look, we know you're injured, this</p> <p>19 takes you out for a certain amount of time, we</p> <p>20 reserve the right to do this. But there's definitely</p> <p>21 times where it didn't -- if he could turn around --</p> <p>22 some people heal quickly, some injuries are not as</p> <p>23 serious as they initially thought. Some guys could</p> <p>24 turn around fast, there's no reason to extend them.</p> <p>25 Q. Just so I'm clear, prior to 2012 there was a</p>	<p style="text-align: right;">416</p> <p>1 SILVA</p> <p>2 So somebody smartly go, wait, we are aware</p> <p>3 of this injury. They get checked out after the fight</p> <p>4 and they do, why would that be any different than us</p> <p>5 finding out any other way.</p> <p>6 Q. So you're telling me that there were</p> <p>7 occasions where you were watching an interview with a</p> <p>8 fighter and during that interview you learned</p> <p>9 something you didn't know --</p> <p>10 A. Yeah.</p> <p>11 Q. -- that the fighter broke his arm or</p> <p>12 something, was injured during the -- the fight or</p> <p>13 injured in some other way, training, you would then</p> <p>14 cause an injury extension letter to be generated and</p> <p>15 sent to that fighter?</p> <p>16 A. Well, I would contact them and verify. I</p> <p>17 would always ask them first. It's like, and why am I</p> <p>18 finding it out this way. But there -- yeah, there</p> <p>19 was a surprising amount of times as to, like, why</p> <p>20 would you say this to everybody else but not us.</p> <p>21 Q. Okay. So they were telling somebody,</p> <p>22 telling the public, telling some reporter --</p> <p>23 A. Yeah.</p> <p>24 Q. -- that they were injured. You would call</p> <p>25 them up and verify them. And if they confirmed that</p>
<p style="text-align: right;">415</p> <p>1 SILVA</p> <p>2 different policy and injury extension letters were</p> <p>3 not automatically generated if Zuffa had learned</p> <p>4 after a fight that a fighter was injured; is that</p> <p>5 right?</p> <p>6 A. It started happening at a certain time.</p> <p>7 When it did, I don't know because I'm not in the</p> <p>8 medical department. But this is the first time</p> <p>9 somebody brought it to my attention, so I inquired</p> <p>10 into it. I don't know how long that had been</p> <p>11 implemented before I found out about it.</p> <p>12 Q. Okay. But the prior policy was that an</p> <p>13 injury extension, under your understanding, would</p> <p>14 only be given if a fighter or his representative</p> <p>15 called you up and said, I'm injured, or if a</p> <p>16 fighter's -- was offered a fight and turned it down</p> <p>17 on the -- on the basis that he claimed to be injured?</p> <p>18 A. Right. Well, the point of it was that when</p> <p>19 you become made aware of an injury, that you could do</p> <p>20 it. If I saw an interview, which has happened, I saw</p> <p>21 an interview with a fighter where his manager didn't</p> <p>22 contact me, he didn't contact me, but he's just</p> <p>23 relaying, it's like, yeah, I broke my arm in a fight,</p> <p>24 it's like, dude, why don't you tell me you got an</p> <p>25 injury, now I'm aware of it, I'm going to do this.</p>	<p style="text-align: right;">417</p> <p>1 SILVA</p> <p>2 they were injured, you would then cause an injury</p> <p>3 extension letter to be sent to the fighter?</p> <p>4 A. Correct.</p> <p>5 Q. And injury extension letters would then</p> <p>6 extend the term of the contract; correct?</p> <p>7 A. But their injuries, as I said, most of the</p> <p>8 time I believe were open, so there's no set term on</p> <p>9 them. It would be done -- the term would be set</p> <p>10 after the fact once we've see how long they're</p> <p>11 actually out for.</p> <p>12 Q. Okay. But at some point the term would be</p> <p>13 set and a contract that initially had the term of</p> <p>14 30 months would be 30 months plus whatever amount of</p> <p>15 time you added for the injury extension; correct?</p> <p>16 A. Correct, if there was any time extension.</p> <p>17 Q. All right. You can put that document aside.</p> <p>18 MR. CRAMER: Like to mark the next</p> <p>19 document as Silva Exhibit 45.</p> <p>20 (Silva Deposition Exhibit 45 marked for</p> <p>21 identification.)</p> <p>22 Q. All right. This is a two-page series of</p> <p>23 e-mails with the Bates range ZFL-2536288 through 289.</p> <p>24 It's a June 2012 e-mail exchange between Tracy Long</p> <p>25 and UFC fighter Matt Wiman that Tracy Long forwarded</p>

<p style="text-align: right;">418</p> <p>1 SILVA</p> <p>2 to you and Mersch; is that right?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And Wiman writes at the bottom of the</p> <p>5 first page, to Long, subject, "UFC on Fuel Bout</p> <p>6 Agreement/Cleared to Compete (Wiman). And he says:</p> <p>7 "Hey Tracy, I'm a little confused about my extension.</p> <p>8 Can you explain it in simpler terms to me. I was</p> <p>9 only injured for 2 to 3 months and the letter</p> <p>10 says" -- "states an eight month extension."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. All right. And then Long sends you an</p> <p>14 e-mail, and forwards this to you, and -- I'm sorry,</p> <p>15 Long -- there's an e-mail on June 18, 2012, at</p> <p>16 6:27 p.m. from Long, and she wrote: "Joe Silva gave</p> <p>17 me the time-frame. I believe it is based on when you</p> <p>18 last fought and when you will fight."</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. "You last fought on October 1, 2011. You</p> <p>22 are now scheduled to fight on September 29, 2012."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. And so he says: "So all the months I'm</p>	<p style="text-align: right;">420</p> <p>1 SILVA</p> <p>2 give me. So I was like, yeah, I need that time</p> <p>3 difference for as many times as I've tried to get you</p> <p>4 a fight and you don't fight.</p> <p>5 Q. Is it fair to say that in this particular</p> <p>6 instance you did not offer Wiman a fight between</p> <p>7 October 1, 2011, and September 29, 2012, other than</p> <p>8 the fight he was scheduled to fight in September</p> <p>9 of 2012?</p> <p>10 A. I don't recall, because I've made thousands</p> <p>11 of matches between today and then. But I just know</p> <p>12 definitely with Matt Wiman it was constantly an issue</p> <p>13 trying to get him fights, trying to get him active</p> <p>14 and continually have him pull out. Pull out injured,</p> <p>15 change his mind about when he could come back and</p> <p>16 fight.</p> <p>17 So, yeah, it was particularly problematic</p> <p>18 in -- in trying to get him a fight and honor his</p> <p>19 contract.</p> <p>20 Q. Now, he says: "All the months I'm training</p> <p>21 and waiting patiently are not counting."</p> <p>22 So presumably, in his mind, he was training</p> <p>23 and waiting to fight, and not being given an offer of</p> <p>24 a fight until September 29, 2012. Was he lying?</p> <p>25 MR. ISAACSON: Objection -- objection to</p>
<p style="text-align: right;">419</p> <p>1 SILVA</p> <p>2 training and waiting patiently are not counted? This</p> <p>3 is because there's so many fighters and you all have</p> <p>4 to honor your contracts?"</p> <p>5 So let me just ask you about this. So is</p> <p>6 Long accurately recounting what you told Long about</p> <p>7 how the injury extension should go?</p> <p>8 A. Yes.</p> <p>9 Q. And so even though he was only injured for</p> <p>10 two to three months, you, following the Zuffa policy,</p> <p>11 gave him an eight-month extension?</p> <p>12 A. He was extended longer. It was not as his</p> <p>13 e-mail made it seem. There was always problems with</p> <p>14 Matt Wiman. I believe he's still under contract and</p> <p>15 has not fought for years because he continually says</p> <p>16 he's injured but he will be back and he will fight,</p> <p>17 And we'll check in on him. And he's like, no, no, I</p> <p>18 don't want to fight, I'm still dealing with issues,</p> <p>19 but one day I'll be back. And so he was just kind of</p> <p>20 a screwy guy that way.</p> <p>21 So I would try to get him fights and he</p> <p>22 would adjust or change, I don't want to fight at that</p> <p>23 time, at that place or there.</p> <p>24 So this was -- this looked soon as I could</p> <p>25 get him a fight under the conditions that he would</p>	<p style="text-align: right;">421</p> <p>1 SILVA</p> <p>2 form. Calls for speculation. Argumentative.</p> <p>3 A. Yeah, there's a lot of things I disagree</p> <p>4 with Matt Wiman about. So that he put it in an</p> <p>5 e-mail does not mean that I agree with it.</p> <p>6 Q. Okay. But it's fair to say that the way you</p> <p>7 enacted the Zuffa extension policy, you extended his</p> <p>8 contract from the moment you learned of his injury to</p> <p>9 the moment of his next fight; is that fair?</p> <p>10 A. Yes. It usually goes from the last time</p> <p>11 that you fought -- say if we're trying to have a</p> <p>12 four-month window normally, would be ideal, if</p> <p>13 everybody could do. So you -- you built that period</p> <p>14 of time, you know, to get him a fight in four months,</p> <p>15 you have to go from the period of time the last time</p> <p>16 he fought, four months from there, so that's where it</p> <p>17 starts.</p> <p>18 Now, I said, if you fall within that,</p> <p>19 usually it's like no, this is just normal time. But</p> <p>20 if you go way over that, then I may elect to do it</p> <p>21 longer.</p> <p>22 And sometimes, as we talked about with the</p> <p>23 fluctuations in fighters returning, fighters going</p> <p>24 out, there's times when I can get you fights faster</p> <p>25 and times when it could take longer. Especially,</p>

<p style="text-align: right;">422</p> <p>1 SILVA</p> <p>2 he's a 155-pound fighter in our most -- that's the</p> <p>3 biggest division we have, the most populace division,</p> <p>4 and he was a fighter who was quite often averse to</p> <p>5 taking anything less than full training camp fights.</p> <p>6 So where somebody else might have been able to be</p> <p>7 accommodated quicker, it's like if it's not under the</p> <p>8 exact conditions I want, then I want no part of it,</p> <p>9 and it was harder to get him a fight.</p> <p>10 Q. Okay. Put that document aside.</p> <p>11 MR. CRAMER: I'm marking the next document</p> <p>12 as Silva Exhibit 46.</p> <p>13 (Silva Deposition Exhibit 46 marked for</p> <p>14 identification.)</p> <p>15 Q. Silva 46 is a series of e-mails bearing the</p> <p>16 Bates range ZFL-2479790 through 9791. This is a</p> <p>17 September 2014 e-mail exchange regarding UFC fighter</p> <p>18 Junior dos Santos; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And I'd like to draw your attention</p> <p>21 initially to the e-mail -- the first e-mail at the</p> <p>22 bottom from Ms. Long to -- whoever it's to -- but</p> <p>23 the -- the text I'd like to draw your attention to is</p> <p>24 on the second page. She says: "In addition,</p> <p>25 attached please find a Notice of Extension of the</p>	<p style="text-align: right;">424</p> <p>1 SILVA</p> <p>2 fight will be available for them on that date. I'm</p> <p>3 ok with 7 months though."</p> <p>4 A. Yes.</p> <p>5 Q. And you wrote that?</p> <p>6 A. Correct. But even though we could not --</p> <p>7 for some, like for JDS being a heavyweight and</p> <p>8 there's more limited options for him, it could be</p> <p>9 like, all right, well, I could have gotten you a</p> <p>10 fight earlier, you were unavailable then, here's</p> <p>11 where I will have a fight. It's not my fault that</p> <p>12 you're injured. So the contract provides that you</p> <p>13 could extend it through that. But I wasn't going to</p> <p>14 push it. It's like, they want ten months, I'll be</p> <p>15 reasonable about it, that's fine, but just because</p> <p>16 you go, well, now this is when I want to fight,</p> <p>17 especially in something like a heavyweight division,</p> <p>18 doesn't mean that I'm going to have anything</p> <p>19 available to you at that particular date.</p> <p>20 Q. So your understanding of the policy and the</p> <p>21 practice was generally to run the injury time from</p> <p>22 the moment of your notification of the injury or the</p> <p>23 moment of the injury through the next fight but</p> <p>24 sometimes you altered that policy?</p> <p>25 A. Yeah, I want -- you know, if somebody makes</p>
<p style="text-align: right;">423</p> <p>1 SILVA</p> <p>2 Term of your Promotional and Ancillary Rights</p> <p>3 Agreement. It is being sent to you upon notification</p> <p>4 that you have before cleared to compete in</p> <p>5 professional mixed martial arts events. After</p> <p>6 careful consideration, Zuffa elects to extend the</p> <p>7 Term of your Agreement for a period of ten (10)</p> <p>8 months. See attached correspondence."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. All right. And then Ana Claudia Guedes</p> <p>12 responds to Ms. Long, copies Mersch and says: "Thank</p> <p>13 you, Tracy. We will get the bout agreement executed</p> <p>14 ASAP. Junior's injury was in May and he was cleared</p> <p>15 for a December fight - that is a 7 month injury</p> <p>16 period. Per the terms of the agreement, that is the</p> <p>17 extension option available to Zuffa at this time, not</p> <p>18 10 months. Please provide a revised extension letter</p> <p>19 to that effect."</p> <p>20 And then Mersch writes on September 20,</p> <p>21 2014: "Do we disagree with her assessment that JDS</p> <p>22 actually injury time should be 7 months versus 10?"</p> <p>23 And then you said to Mersch, and others</p> <p>24 internally, on September 20, 2014: "Just because</p> <p>25 someone is cleared by a date doesn't mean that a</p>	<p style="text-align: right;">425</p> <p>1 SILVA</p> <p>2 a good point, you know, I try to be reasonable about</p> <p>3 it. The hard thing is there are so many injuries,</p> <p>4 you would have so many come up, that you just go, all</p> <p>5 right, well, this seems to make sense. There's times</p> <p>6 I'd ask Tracy to check my math on months, it's like,</p> <p>7 is this reasonable. And there's times where she'd</p> <p>8 correct me, it's like, no, it wouldn't be that many</p> <p>9 months. Like, okay.</p> <p>10 Or if the fighter's manager contested it,</p> <p>11 and go, no, we think that's too much, I'd review it</p> <p>12 again and go, okay, you're right, she's saying it</p> <p>13 should be seven months, I'm fine with seven months.</p> <p>14 MR. CRAMER: All right. I think we're</p> <p>15 running out of tape time, so let's take a</p> <p>16 break.</p> <p>17 THE VIDEOGRAPHER: Off the record at 5:32.</p> <p>18 (Recess taken at 5:32 p.m., proceedings</p> <p>19 resumed at 5:40 p.m.)</p> <p>20 THE VIDEOGRAPHER: Here begins Media</p> <p>21 Number 6 in the video-recorded deposition of</p> <p>22 Joseph Silva. We're back on the record at</p> <p>23 5:40.</p> <p>24 BY MR. CRAMER:</p> <p>25 Q. If -- I just want to understand Zuffa's</p>

<p style="text-align: right;">426</p> <p>1 SILVA</p> <p>2 policy with regarding to extending the terms of</p> <p>3 contracts if fighters turn down opponents, turn down</p> <p>4 fights.</p> <p>5 A. Yes.</p> <p>6 Q. So my understanding is that if Zuffa offers</p> <p>7 a fighter a bout, and the fighter doesn't want, for</p> <p>8 whatever reason, to accept that bout, the Zuffa</p> <p>9 contract and policy would be to extend the fighter's</p> <p>10 contract term for six months or however long the</p> <p>11 fighter is unwilling to compete; is that right?</p> <p>12 A. It sounds right.</p> <p>13 Q. Okay. Are there any reasons for turning</p> <p>14 down an opponent that would not result in a contract</p> <p>15 extension?</p> <p>16 A. I mean, I discuss with every fight that I</p> <p>17 make, it's a discussion about who I think would be</p> <p>18 good to -- from the fight, they may have</p> <p>19 alternatives, and quite often we can work it out.</p> <p>20 But there -- there's situations where you</p> <p>21 have, you know, I could offer you three possible</p> <p>22 opponents because that's what I have available, three</p> <p>23 that would make sense for you to fight, and other</p> <p>24 times like, if you want a fight within this time</p> <p>25 period, this is the only guy I have who -- who makes</p>	<p style="text-align: right;">428</p> <p>1 SILVA</p> <p>2 different reasons for not wanting to fight somebody</p> <p>3 in particular.</p> <p>4 Q. What does it mean for a fighter to tell you</p> <p>5 that fighting a particular fight would not increase</p> <p>6 their stature?</p> <p>7 A. There is some where you could see that they</p> <p>8 have a point, but you -- you would look at it. I</p> <p>9 said, I try to make fights, I don't normally offer</p> <p>10 fights that don't make sense that I don't have, well,</p> <p>11 here's why, here's why I think this is a good fight</p> <p>12 for you.</p> <p>13 There are some fights where that doesn't</p> <p>14 matter to the fighter. Like say, they've been</p> <p>15 inactive and they just really want to fight and get</p> <p>16 back there. I might go, well, this is the only guy I</p> <p>17 have for that, and he's not ranked, you are. So I</p> <p>18 could see where maybe they would not want to do it,</p> <p>19 but they go, yeah, I want it, because all I care</p> <p>20 about is fighting --</p> <p>21 Q. Right.</p> <p>22 A. -- I just need to be active, if it's not a</p> <p>23 big one, hopefully the next one will be bigger.</p> <p>24 Like, okay.</p> <p>25 Some guys, there's something in them that</p>
<p style="text-align: right;">427</p> <p>1 SILVA</p> <p>2 any sense for you to fight.</p> <p>3 And so when I had options to give, I'd like</p> <p>4 to do it. Because it's still getting somebody a</p> <p>5 fight. But there was many times where you just did</p> <p>6 not have that option. In that particular weight</p> <p>7 class, you had a particular spot, and it's like, this</p> <p>8 is the one that I have.</p> <p>9 Or you're saying I want a fight on this</p> <p>10 show, but I've done every fight for that show except</p> <p>11 for one fight. I have a guy who's willing to fight</p> <p>12 you on that show, but you're not willing to fight</p> <p>13 him. Well, I owe that guy a fight and I only have</p> <p>14 one fight on that card, you -- you're going to have</p> <p>15 to wait then, and -- and I've got to get this guy</p> <p>16 who's willing to fight a fight.</p> <p>17 Q. What are some reasons that fighters have</p> <p>18 told you that they are turning down fights for?</p> <p>19 A. Some don't like the stylistic match-up.</p> <p>20 Some don't feel that it increases their stature to</p> <p>21 fight a particular fighter. Some may feel like that</p> <p>22 they're not at that opponent's level yet, and want</p> <p>23 a -- what they consider to be a lower-level opponent.</p> <p>24 So there's all kinds of reasons that are not</p> <p>25 necessarily consistent. Different people have</p>	<p style="text-align: right;">429</p> <p>1 SILVA</p> <p>2 spooks them. In MMA, a lot of guys have traveled</p> <p>3 around maybe the world to train, and so you train a</p> <p>4 couple times with somebody, maybe you saw something</p> <p>5 in training that spooked you, and you're like, yeah,</p> <p>6 I don't think that I could beat that guy.</p> <p>7 What's interesting, a lot of those times</p> <p>8 they're incorrect. I've had guys who are initially</p> <p>9 really worried about opponents and actually did very</p> <p>10 well against them.</p> <p>11 MR. CRAMER: All right. I'd like to have</p> <p>12 the next document marked as Silva Exhibit 47.</p> <p>13 (Silva Deposition Exhibit 47 marked for</p> <p>14 identification.)</p> <p>15 Q. This is a series of e-mails bearing the</p> <p>16 Bates range ZUF-00296965 through 971. And I'd like</p> <p>17 you to turn to page 5 of these e-mails. In</p> <p>18 particular, the e-mail at the top of page 5. It's an</p> <p>19 April 2010 e-mail from you to Nima Safapour.</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Who is Nima Safapour?</p> <p>23 A. That was the manager of Vladimir</p> <p>24 Matyushenko.</p> <p>25 Q. Vladimir Matyushenko?</p>

<p style="text-align: right;">430</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. That's M-A-T-Y-U-S-H-E-N-K-O.</p> <p>4 And he's known as Vlad to some?</p> <p>5 A. I usually call him Vladimir, but I think</p> <p>6 Nima would refer to him as Vlad.</p> <p>7 Q. Okay. As Vlad.</p> <p>8 And this is an e-mail that you sent; is that</p> <p>9 right?</p> <p>10 A. Yes.</p> <p>11 Q. All right. And you say to Nima on April 21,</p> <p>12 2010: "That is the fight I am offering. You don't</p> <p>13 really get multiple choices. Unless he has some</p> <p>14 convincing reason for not accepting the fight, like a</p> <p>15 verifiable injury his contract would be extended and</p> <p>16 he would have to wait until another show to fight for</p> <p>17 turning down a legitimate opponent."</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. And what you were stating was essentially</p> <p>21 Zuffa's policy and -- and its contractual rights with</p> <p>22 regard to fighters turning down fights; is that</p> <p>23 right?</p> <p>24 MR. ISAACSON: Objection to form.</p> <p>25 Q. Let me rephrase.</p>	<p style="text-align: right;">432</p> <p>1 SILVA</p> <p>2 really get multiple choices."</p> <p>3 Is it correct that it was not Zuffa's</p> <p>4 practice or policy to give fighters multiple choices</p> <p>5 on who they fight?</p> <p>6 A. That's incorrect.</p> <p>7 Q. It was incorrect; sometimes you did give</p> <p>8 them options?</p> <p>9 A. Correct, if I had options.</p> <p>10 Q. If you had options, you would give them; if</p> <p>11 you didn't, you wouldn't?</p> <p>12 A. Correct.</p> <p>13 Q. Let's say a fighter doesn't want to fight</p> <p>14 with the UFC anymore and -- so they're just unwilling</p> <p>15 to fight. They say, I don't want to fight with the</p> <p>16 UFC, I want to fight somewhere else, but they're</p> <p>17 still under contract with Zuffa, and they keep</p> <p>18 turning down fights. Would it be Zuffa's policy to</p> <p>19 invoke this provision to keep them under exclusive</p> <p>20 contract with Zuffa?</p> <p>21 A. It would -- the decision would be ultimately</p> <p>22 up to Dana and Lorenzo. It's like, what do you want</p> <p>23 to do, this is his stance, and they would make that</p> <p>24 decision.</p> <p>25 Q. It did happen from time to time that there</p>
<p style="text-align: right;">431</p> <p>1 SILVA</p> <p>2 What were you attempting to convey to</p> <p>3 Ms. Safapour in this e-mail?</p> <p>4 A. He wanted to fight on that show, in the</p> <p>5 fight that I had available, light heavyweight,</p> <p>6 similar to heavyweight, it's the second smallest</p> <p>7 weight class we have as far as talent. So when</p> <p>8 you're a good guy at that, there's only so many of</p> <p>9 those guys who've already fought each other, it</p> <p>10 greatly limits who are the credible guys you can</p> <p>11 fight.</p> <p>12 It's like, for you to fight on this show,</p> <p>13 the guy that I have for you to fight is Jon Jones.</p> <p>14 That's the option that I have. I don't have a bunch</p> <p>15 of 205 legitimate guys.</p> <p>16 Vlad was a veteran and fought in a bunch of</p> <p>17 big shows at -- at that time, so that was the kind of</p> <p>18 opponent that made sense for him to fight. And it's</p> <p>19 like, if you will not fight Jon Jones, you're going</p> <p>20 to have to fight in another show.</p> <p>21 Q. You write to Ms. Safapour: "That's the</p> <p>22 fight I'm offering" --</p> <p>23 A. Mister.</p> <p>24 Q. I'm sorry, Mr. Safapour. Thank you.</p> <p>25 "That's the fight I'm offering. You don't</p>	<p style="text-align: right;">433</p> <p>1 SILVA</p> <p>2 were fighters who said, look, I just don't want to be</p> <p>3 with UFC anymore; right?</p> <p>4 A. Yeah. And I believe that there have been</p> <p>5 people who were released.</p> <p>6 Q. Fair to say that if Zuffa doesn't want to</p> <p>7 release them, it doesn't have to in that instance;</p> <p>8 correct?</p> <p>9 A. I don't believe so.</p> <p>10 Q. In other words, under Zuffa's contracts, if</p> <p>11 a fighter didn't want to fight for the UFC anymore</p> <p>12 but still was under the exclusive contract with</p> <p>13 Zuffa, the fighter would -- the fighter could not get</p> <p>14 out of the contract simply by turning down fights;</p> <p>15 correct?</p> <p>16 A. Correct.</p> <p>17 Q. All right. All right. I asked you earlier,</p> <p>18 another topic, some questions about pay-per -- I'm</p> <p>19 sorry, some questions about compensation other than</p> <p>20 win and show. I want to ask you some other questions</p> <p>21 about that.</p> <p>22 So in addition to show and win money, there</p> <p>23 were other ways in which fighters were compensated by</p> <p>24 Zuffa; correct?</p> <p>25 A. Correct.</p>

<p style="text-align: right;">434</p> <p>1 SILVA</p> <p>2 Q. Okay. Certain fighters received a share of</p> <p>3 Pay-Per-View revenues when they defend -- when</p> <p>4 they -- I'm sorry.</p> <p>5 Certain fighters received a share of</p> <p>6 Pay-Per-View revenues; correct?</p> <p>7 A. Correct.</p> <p>8 Q. Who was offered at Zuffa a share of</p> <p>9 Pay-Per-View revenues?</p> <p>10 A. That would be up to Dana and Lorenzo who</p> <p>11 they're willing to give a share of Pay-Per-View</p> <p>12 revenues to.</p> <p>13 Q. Is it fair to say that only champions</p> <p>14 defending their title were given a share of</p> <p>15 Pay-Per-View revenues at the UFC?</p> <p>16 A. No.</p> <p>17 Q. There were others?</p> <p>18 A. There were others. I think if you would</p> <p>19 become a -- a big attraction even without a title,</p> <p>20 you could still be worthy of Pay-Per-View, but it was</p> <p>21 rarer.</p> <p>22 Q. It was rare.</p> <p>23 Most of the times that fighters were offered</p> <p>24 a share of the Pay-Per-View revenues, they were</p> <p>25 defending a title; correct?</p>	<p style="text-align: right;">436</p> <p>1 SILVA</p> <p>2 Q. And was that -- that's just for her or that</p> <p>3 was -- that was not a general policy?</p> <p>4 A. I think most of them were that way, is that</p> <p>5 you needed to be a -- a champion defending your belt</p> <p>6 to get it. Not -- there were some exceptions, but</p> <p>7 for the majority.</p> <p>8 Q. Okay. You can put that aside.</p> <p>9 Is it fair to say that fighters frequently</p> <p>10 asked for Pay-Per-View cuts in compensation</p> <p>11 negotiations?</p> <p>12 A. Some do. There's actually quite a few</p> <p>13 fighters who did not care about that because they</p> <p>14 felt that they were not marketable enough that it was</p> <p>15 not enticing to them because they weren't really</p> <p>16 convinced they were going to sell a bunch of</p> <p>17 Pay-Per-Views.</p> <p>18 If you were somebody who -- who had a</p> <p>19 demonstrable popularity, then you feel, it's like</p> <p>20 this is going to be a windfall for me, I will sell a</p> <p>21 bunch of Pay-Per-Views. Not everybody felt they</p> <p>22 would. Some kind of saw themselves as more</p> <p>23 workmanlike, it's like, look, I put in my time and I</p> <p>24 work hard and this and that, I'm not a fan favorite,</p> <p>25 who cares.</p>
<p style="text-align: right;">435</p> <p>1 SILVA</p> <p>2 A. I'd say most, yes.</p> <p>3 MR. CRAMER: I'd like to mark as Silva</p> <p>4 Exhibit 48 the next document.</p> <p>5 (Silva Deposition Exhibit 48 marked for</p> <p>6 identification.)</p> <p>7 Q. This is an e-mail from Shelby to White and</p> <p>8 Mr. Silva -- I'm sorry. It's just an e-mail from</p> <p>9 Fertitta, Lorenzo Fertitta, to Shelby, cc'd to White</p> <p>10 and Silva --</p> <p>11 A. Uh-huh.</p> <p>12 Q. -- dated Thursday, March 13, 2014. The</p> <p>13 subject is Holly Holm, and it bears the Bates number</p> <p>14 ZFL-1005485.</p> <p>15 At the top Mr. Fertitta says: "We can get</p> <p>16 something done. For ppv bonus she must be</p> <p>17 defending."</p> <p>18 PPV bonus refers to Pay-Per-View bonus?</p> <p>19 A. Yes.</p> <p>20 Q. And was Mr. Fertitta correct that in order</p> <p>21 for Holly Holm to get a Pay-Per-View bonus, she had</p> <p>22 to be defending a title?</p> <p>23 A. He was saying that he was not willing to</p> <p>24 give her Pay-Per-View if she's not a champion</p> <p>25 defending her title.</p>	<p style="text-align: right;">437</p> <p>1 SILVA</p> <p>2 Q. Okay. So I think I asked you briefly about</p> <p>3 this, but Zuffa also paid other kinds of</p> <p>4 discretionary bonuses?</p> <p>5 A. Correct.</p> <p>6 Q. In addition to win and show; correct?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. And by "discretionary," the -- these</p> <p>9 other bonuses that I'm going to ask you about, other</p> <p>10 than win and show, and potentially Pay-Per-View, they</p> <p>11 were not contractually required to pay structured or</p> <p>12 discretionary bonuses; correct?</p> <p>13 A. Correct.</p> <p>14 Q. All right. How were the -- how were these</p> <p>15 structured or discretionary bonuses determined?</p> <p>16 A. And you're not talking about like the</p> <p>17 end-of-the-night bonuses, you're talking about just</p> <p>18 like up and down -- because we had -- for every show</p> <p>19 you had, like, say \$50,000 bonus for performances of</p> <p>20 the night, for fight of the night, that both would</p> <p>21 get it, so that was standard on every show.</p> <p>22 Q. So every --</p> <p>23 A. So that was one kind of bonus.</p> <p>24 Q. So one kind of bonus is a fight-of-the-night</p> <p>25 bonus?</p>

<p style="text-align: right;">454</p> <p>1 SILVA</p> <p>2 (Silva Deposition Exhibit 53 marked for</p> <p>3 identification.)</p> <p>4 Q. Silva 53 is an e-mail from you to Lorenzo</p> <p>5 Fertitta and Dana, Dana's BlackBerry e-mail address,</p> <p>6 dated November 24, 2008, and it has the Bates Number</p> <p>7 ZUF-00332586.</p> <p>8 This is an e-mail that you sent to Fertitta</p> <p>9 and Dana White on November 24, 2008; is that right?</p> <p>10 A. Yes.</p> <p>11 Q. And the subject was "Money for Vera and</p> <p>12 Alves."</p> <p>13 A. Yeah. Alves, yes.</p> <p>14 Q. Alves. Okay.</p> <p>15 And these were Filipino fighters; is that</p> <p>16 right?</p> <p>17 A. No. Alves is Brazilian.</p> <p>18 Q. Okay. So Alves is Brazilian and Brandon</p> <p>19 Vera is Filipino; is that right?</p> <p>20 A. Correct.</p> <p>21 Q. And Brandon Vera is one of the plaintiffs in</p> <p>22 this lawsuit; is that right?</p> <p>23 A. Correct.</p> <p>24 Q. Do you know all of the plaintiffs in this</p> <p>25 lawsuit -- do you know who they are?</p>	<p style="text-align: right;">456</p> <p>1 SILVA</p> <p>2 Q. Okay. And is it fair to say then that</p> <p>3 Alves's next fight was going to be for the title?</p> <p>4 A. Possibly likely. That -- that's what I</p> <p>5 would have liked to have happened.</p> <p>6 Q. Okay. I see. And then you write: "May you</p> <p>7 can offer him a 2 tier contract, with a higher path</p> <p>8 if he becomes champ. The good thing about those is</p> <p>9 it locks them in longer if they become champ."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. What did you mean by that?</p> <p>13 A. Well, now you're -- they're willing to</p> <p>14 extend into a longer deal because they're getting</p> <p>15 more money.</p> <p>16 Q. And why would you want to lock someone in</p> <p>17 for a longer deal if they become a champ?</p> <p>18 A. The benefits, as we've gone over multiple</p> <p>19 times, to having somebody under contract is that you</p> <p>20 can more easily promote fights long-term with them.</p> <p>21 Q. And you could ensure that if you became</p> <p>22 champ you'd have them locked up for a longer period</p> <p>23 of time; correct?</p> <p>24 A. Yes. That's what this -- the championship</p> <p>25 tier would do.</p>
<p style="text-align: right;">455</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. All right. And both Vera and Alves were UFC</p> <p>4 fighters?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And you write: "Thiago" -- and</p> <p>7 that's Thiago Alves?</p> <p>8 A. Yes.</p> <p>9 Q. -- "is currently at 32K and 32K. He is on a</p> <p>10 7 fight win streak and is the number 1 contender to</p> <p>11 fight the winner of GSP versus B.J. Penn."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. So he was on a 32 show/32 win contract; is</p> <p>15 that right?</p> <p>16 A. Yes.</p> <p>17 Q. He'd -- he'd won seven in a row. Was that</p> <p>18 in the UFC?</p> <p>19 A. Yes.</p> <p>20 Q. And at that point he was the number one</p> <p>21 contender to fight GSP -- was that George St-Pierre?</p> <p>22 A. Yes.</p> <p>23 Q. The winner of GSP versus B.J. Penn, is that</p> <p>24 accurate at the top?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">457</p> <p>1 SILVA</p> <p>2 Q. It's better to lock him in before he becomes</p> <p>3 a champ than to allow him to become a champ and then</p> <p>4 potentially use that leverage to negotiate a better</p> <p>5 deal?</p> <p>6 A. I would say contractually it's good to have</p> <p>7 somebody under contract before fighting for a</p> <p>8 championship.</p> <p>9 Q. And that's what -- that's what Zuffa tried</p> <p>10 to do; is that right?</p> <p>11 A. Well, I offered that as -- and I don't</p> <p>12 actually remember what strategy they went with. What</p> <p>13 I'm -- I suggested to them, this is based on the</p> <p>14 Brandon Vera example beforehand, that you have some</p> <p>15 fighters who will come to you, as Brandon Vera did,</p> <p>16 and go, I'm going to be your next champion and</p> <p>17 because of that I deserve a high level contract;</p> <p>18 it's -- it's just a no-brainer, it's going to happen,</p> <p>19 I will be a champion. And then they don't perform at</p> <p>20 that level. It's like, you were willing to pay them</p> <p>21 that much money because they promised they would do</p> <p>22 these things, you thought they would do those things,</p> <p>23 and they didn't, and now you're stuck with this high</p> <p>24 contract.</p> <p>25 That's why for Thiago, I think -- thought</p>

<p style="text-align: right;">458</p> <p>1 SILVA</p> <p>2 Thiago has the possibility to fight for the title,</p> <p>3 the possibility to be a champion, and let's structure</p> <p>4 it so that if he does those things, he is rewarded,</p> <p>5 but if he does not accomplish those things, that he's</p> <p>6 not then overpaid for where his situation is at.</p> <p>7 Q. Okay. I asked you a couple questions</p> <p>8 earlier today about the right of first negotiation</p> <p>9 that Zuffa had in its contracts?</p> <p>10 A. Yes.</p> <p>11 Q. This is the 90-day period after the end of a</p> <p>12 fighter's term that Zuffa has exclusive right to</p> <p>13 negotiate with a fighter?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And during that period, the fighter</p> <p>16 doesn't have the ability to field offers from other</p> <p>17 promotions; is that right?</p> <p>18 A. Yeah, not officially.</p> <p>19 Q. Not officially.</p> <p>20 At least they're not officially allowed to</p> <p>21 talk to other promotions during that period; correct?</p> <p>22 A. Correct.</p> <p>23 Q. Why did the UFC need that exclusive</p> <p>24 negotiation period in your understanding, or want it?</p> <p>25 A. You'd -- you'd have to ask the lawyers who</p>	<p style="text-align: right;">460</p> <p>1 SILVA</p> <p>2 Strikeforce?</p> <p>3 A. Uh-huh.</p> <p>4 Q. Do you know who Leland Labarre is?</p> <p>5 A. I do.</p> <p>6 Q. Who is he?</p> <p>7 A. Josh Barnett's manager.</p> <p>8 Q. And Josh Barnett was a UFC fighter or</p> <p>9 Strikeforce fighter, or both?</p> <p>10 A. Both.</p> <p>11 Q. Okay. And Labarre says to Shelby and Mersch</p> <p>12 on November 14, 2011, in the third paragraph: "I'm</p> <p>13 disappointed with the aggressiveness of your</p> <p>14 position. As you know, a fight every 4 months or so</p> <p>15 would be typical for MMA fighters, whose career</p> <p>16 primes are generally short. Conversely, a 4-fight</p> <p>17 deal with a 5-year exclusive term is unheard of. The</p> <p>18 interpretation you have provided is simply</p> <p>19 unreasonable."</p> <p>20 Would you agree with Mr. Labarre's</p> <p>21 observation that the typical MMA fighter's career</p> <p>22 primes are generally short?</p> <p>23 A. No. Especially not for a heavyweight.</p> <p>24 Heavyweights fight longer than any other weight class</p> <p>25 because generally the things that decline first are</p>
<p style="text-align: right;">459</p> <p>1 SILVA</p> <p>2 drafted it.</p> <p>3 Q. Couldn't the UFC sit down with a fighter in</p> <p>4 good faith after the end of his or her contract and</p> <p>5 negotiate with them without this exclusive</p> <p>6 negotiation period?</p> <p>7 A. I didn't write the contract, so I don't</p> <p>8 know.</p> <p>9 Q. Okay. And we talked also about the right to</p> <p>10 match.</p> <p>11 A. Yes.</p> <p>12 Q. And that's a one-year period after the</p> <p>13 90-day exclusive negotiation period that Zuffa has</p> <p>14 the right to match any offer from another MMA</p> <p>15 promotion; correct?</p> <p>16 A. Correct.</p> <p>17 MR. CRAMER: All right. Like to mark next</p> <p>18 document as Silva Exhibit 54. Thank you.</p> <p>19 (Silva Deposition Exhibit 54 marked for</p> <p>20 identification.)</p> <p>21 Q. Silva 54 is a series of e-mails bearing the</p> <p>22 Bates range ZFL-2632951 to 2952. But the second page</p> <p>23 is blank. And the e-mail at the bottom is from</p> <p>24 Leland Labarre dated Monday, November 14 at 2011, to</p> <p>25 Sean Shelby and Michael Mersch, and the subject is</p>	<p style="text-align: right;">461</p> <p>1 SILVA</p> <p>2 speed and reflexes, which are depended upon by the</p> <p>3 smaller fighters. Look how long George Foreman</p> <p>4 fought. And his fighter that he's speaking about is</p> <p>5 a heavyweight.</p> <p>6 Q. All right. You can put that aside.</p> <p>7 MR. CRAMER: All right. I'd like to mark</p> <p>8 the next document as Silva Exhibit 55.</p> <p>9 (Silva Deposition Exhibit Number 55 marked</p> <p>10 for identification.)</p> <p>11 Q. Silva 55 is a series of e-mails that are on</p> <p>12 two pages bearing the Bates range ZFL-2642993 through</p> <p>13 2994. There is an e-mail at the middle of the page</p> <p>14 from Leo Khorolinsky to you, Mr. Silva.</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. And it's dated Sunday, January 27, 2008, and</p> <p>18 it's regarding Andrei.</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Who's Leo Khorolinsky?</p> <p>22 A. He was the manager of Andrei Arlovski.</p> <p>23 Q. And Andrei Arlovski was a UFC fighter?</p> <p>24 A. Yes, he was.</p> <p>25 Q. Okay. And he is talking about an agreement</p>

<p style="text-align: right;">462</p> <p>1 SILVA</p> <p>2 that you sent him. And towards the end of his e-mail</p> <p>3 to you he says: "As you are aware, as of March 1, it</p> <p>4 will have been almost a year since Andrei's last</p> <p>5 fight (as compared to the prior 12 month period in</p> <p>6 which he fought 4 times). It is extremely damaging</p> <p>7 to Andrei's career to be shelved for such a long</p> <p>8 period of time and he can't sign an agreement that</p> <p>9 could conceivably result in additional 6 months</p> <p>10 without a fight."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. What was he referring to?</p> <p>14 A. There was apparently a period of time that</p> <p>15 he had been inactive. I don't recall -- I know</p> <p>16 Andrei was a person who had issues with injuries in</p> <p>17 his career. Also, I believe there was a couple of</p> <p>18 circumstances where he did have scheduled fights and</p> <p>19 the opponents dropped out late notice.</p> <p>20 As I said earlier, heavyweight can be</p> <p>21 particularly problematic in finding -- if the initial</p> <p>22 opponent falls through and the other heavyweights are</p> <p>23 booked, no athletic commission is going to allow you</p> <p>24 to put a former champion like Andrei Arlovski against</p> <p>25 a UFC first-timer, somebody who doesn't have the</p>	<p style="text-align: right;">464</p> <p>1 SILVA</p> <p>2 A. That's possible.</p> <p>3 Q. And a fighter wouldn't want not to fight if</p> <p>4 he could fight for a 12-month period because that's a</p> <p>5 long time not to be fighting and to lose public</p> <p>6 prominence; correct?</p> <p>7 A. Especially if that's -- you know, he's not</p> <p>8 making that choice to do it.</p> <p>9 Now, there are fighters who simply choose,</p> <p>10 I'm burnt out, I'm tired, I need to step away, and</p> <p>11 they could see that as a very positive thing. But if</p> <p>12 you feel it's a situation that's out of your control,</p> <p>13 you didn't agree to that, then I definitely</p> <p>14 understand being upset about that.</p> <p>15 Q. Okay. And that would be a difficulty for a</p> <p>16 fighter if they wanted to fight for any MMA promotion</p> <p>17 but the MMA promotion wasn't offering them a fight or</p> <p>18 they couldn't fight for a year or more; is that</p> <p>19 right?</p> <p>20 A. Well, if they chose not to. If they made an</p> <p>21 agreement and said, under these provisions I choose</p> <p>22 to not -- you know, to allow -- if there's a</p> <p>23 championship clause or something, and I choose to sit</p> <p>24 it out, that's a choice they're making that they feel</p> <p>25 is in their best interest.</p>
<p style="text-align: right;">463</p> <p>1 SILVA</p> <p>2 experience. So there may have been issues where he</p> <p>3 did not fight as much as he or we wanted him to.</p> <p>4 He was a marketable heavyweight, so we'd</p> <p>5 want him to be active. And I don't remember exactly</p> <p>6 why he was not active at this time in 2008.</p> <p>7 Q. You wouldn't disagree with Mr. Khorolinsky</p> <p>8 saying that 12 months is a long time to be -- for a</p> <p>9 fighter to be shelved; correct?</p> <p>10 A. I would not agree with the term "shelved,"</p> <p>11 but yes, he would want -- he would want and we would</p> <p>12 want, it would be to our benefit to have him fighting</p> <p>13 sooner. You don't want fans forgetting about him,</p> <p>14 and he's a marketable heavyweight. He was --</p> <p>15 Q. Right.</p> <p>16 A. -- somebody who was well liked and in good</p> <p>17 shape. There is absolutely no reason we would not</p> <p>18 want Andrei Arlovski fighting.</p> <p>19 Q. So it would be not in the interests of the</p> <p>20 UFC to have a popular fighter to not fight for</p> <p>21 12 months; is that right?</p> <p>22 A. Correct.</p> <p>23 Q. And one of the reasons is that over the</p> <p>24 course of the 12 months, the fan interest could fall</p> <p>25 off because out of sight, out of mind; is that right?</p>	<p style="text-align: right;">465</p> <p>1 SILVA</p> <p>2 That's different than this situation, where</p> <p>3 Andrei is wanting to fight, I believe that we got him</p> <p>4 fights, due to circumstances beyond his control and</p> <p>5 our control, he did not get those fights, so I</p> <p>6 definitely would understand frustration in his case.</p> <p>7 Q. All right. You can put that document aside.</p> <p>8 MR. CRAMER: I'd like to mark as the next</p> <p>9 document Silva Exhibit 56.</p> <p>10 (Silva Deposition Exhibit 56 marked for</p> <p>11 identification.)</p> <p>12 Q. Silva 56 is a two-page document bearing the</p> <p>13 Bates range ZUF-00294337 through 338. This is a</p> <p>14 September 2009 e-mail exchange between you and Ariel</p> <p>15 Helwani; is that right?</p> <p>16 A. Yes.</p> <p>17 Q. Ariel Helwani is an MMA journalist; is that</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 Q. And it relates to Cro Cop, is that right, in</p> <p>21 part?</p> <p>22 A. Yes.</p> <p>23 Q. And Cro Cop is Mirko Cro Cop Filipovic; is</p> <p>24 that right?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">466</p> <p>1 SILVA</p> <p>2 Q. Okay. And Cro Cop, in September 2009, was</p> <p>3 under -- under contract with Zuffa; is that right?</p> <p>4 A. Yes.</p> <p>5 Q. And before that, he had fought in Pride; is</p> <p>6 that right?</p> <p>7 A. Yes.</p> <p>8 Q. And Zuffa acquired Pride in 2007; is that</p> <p>9 right?</p> <p>10 A. Yes.</p> <p>11 Q. And so did Zuffa acquire the Cro Cop --</p> <p>12 Cro Cop contract with the Pride acquisition?</p> <p>13 A. Yes.</p> <p>14 Q. And back in 2009, Cro Cop was a big name</p> <p>15 fighter; is that right?</p> <p>16 A. Yeah, he was a well-known fighter.</p> <p>17 Q. He was one of Pride's most popular fighters?</p> <p>18 A. He -- yeah, he was -- he was a top Pride</p> <p>19 fighter.</p> <p>20 Q. And Helwani sends you an article at the</p> <p>21 bottom, Tuesday, September 2009, 4:05 p.m. and asked</p> <p>22 you whether Cro Cop been released.</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. And you say: "I don't see anything in that</p>	<p style="text-align: right;">468</p> <p>1 SILVA</p> <p>2 contract?</p> <p>3 A. Correct.</p> <p>4 MR. CRAMER: I'd like to mark the next</p> <p>5 document as Silva Exhibit 57.</p> <p>6 (Silva Deposition Exhibit 57 marked for</p> <p>7 identification.)</p> <p>8 Q. Silva 57 is a one-page text that was</p> <p>9 produced to us in this form, it has the Bates number</p> <p>10 ZFL-1874771. Excuse me.</p> <p>11 And in this text, you write to</p> <p>12 [REDACTED] on August 14, 2014. Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Do you know who the [REDACTED] number is?</p> <p>15 A. I'm guessing it was Dana.</p> <p>16 Q. Now, I'll just represent to you that this</p> <p>17 was produced on behalf of Lorenzo Fertitta. Does</p> <p>18 that refresh your recollection that this might be --</p> <p>19 and this --</p> <p>20 A. It's possible. Yeah, I don't know numbers</p> <p>21 because I would just go off their name.</p> <p>22 Q. Right. So this was produced by Zuffa as</p> <p>23 part of the Lorenzo Fertitta compilation. So it's</p> <p>24 either to Dana or Lorenzo Fertitta, and I'm</p> <p>25 representing to you that --</p>
<p style="text-align: right;">467</p> <p>1 SILVA</p> <p>2 saying he was released."</p> <p>3 Is that right? On September 22nd, 2009?</p> <p>4 A. Yes. They -- the story said that he</p> <p>5 retired.</p> <p>6 Q. Okay. And then Helwani sends you an e-mail</p> <p>7 in response saying: "No, but it is saying he retired</p> <p>8 from MMA."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. And then you respond to Helwani on</p> <p>12 September 22nd, 2009: "If someone retires we do not</p> <p>13 have to release them. It basically just puts their</p> <p>14 contract on hold."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Does that accurately describe your</p> <p>18 understanding of what happens when a fighter declares</p> <p>19 that they retired?</p> <p>20 A. Yes. When a fighter declares that they are</p> <p>21 retired, Tracy Long would send them a retirement</p> <p>22 letter.</p> <p>23 Q. And that would ensure that if the fighter</p> <p>24 later decided to unretire, he couldn't fight for</p> <p>25 anyone but Zuffa until he fulfilled the rest of the</p>	<p style="text-align: right;">469</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. -- it was produced to us under Lorenzo</p> <p>4 Fertitta's compilation.</p> <p>5 And you sent this text; is that right?</p> <p>6 A. Correct.</p> <p>7 Q. And could you read to me what you said here?</p> <p>8 A. It's in microscopic print. I believe it</p> <p>9 says: "Bocek was sent a retirement letter but now</p> <p>10 he's asking for complete release. He's coming off a</p> <p>11 win so I would not give it to him. He could end up</p> <p>12 fighting for Bellaforce."</p> <p>13 Q. So he was sent a retirement letter and he</p> <p>14 was asking to be released. And you said, well, he's</p> <p>15 coming off a win, so you didn't want to give him a</p> <p>16 release?</p> <p>17 A. Correct.</p> <p>18 Q. You said if -- and -- and you said to</p> <p>19 Lorenzo, if we released him, he could end up fighting</p> <p>20 for Bellaforce?</p> <p>21 A. Correct.</p> <p>22 Q. What did you mean by "Bellaforce"?</p> <p>23 A. That's just a shortening of the two. It</p> <p>24 could be either or. And I hate typing, so it was</p> <p>25 shorter.</p>

<p style="text-align: right;">470</p> <p>1 SILVA</p> <p>2 Q. So in -- in August of 2014, it would -- it</p> <p>3 would just be Bellator; right?</p> <p>4 A. Yeah. I think it was just a nickname that</p> <p>5 we gave them a while ago because we were -- I was</p> <p>6 making smart-aleck remarks.</p> <p>7 Q. And Mark Bocek was a fighter under contract</p> <p>8 with Zuffa at the time?</p> <p>9 A. Correct.</p> <p>10 Q. And if Zuffa had granted Bocek a complete</p> <p>11 release, he would no longer be under exclusive</p> <p>12 contract with Zuffa; right?</p> <p>13 A. Correct.</p> <p>14 Q. And then the exclusivity term in his</p> <p>15 contract would no longer prohibit him from fighting</p> <p>16 for another MMA promotion; right?</p> <p>17 A. Correct.</p> <p>18 Q. But as long as Zuffa did not grant him a</p> <p>19 release, the retirement clause in his contract</p> <p>20 ensured that he would remain under exclusive contract</p> <p>21 with Zuffa; correct?</p> <p>22 A. Correct. Because no contract would mean</p> <p>23 anything if all you had to do is say "I retired" to</p> <p>24 get out of it.</p> <p>25 Q. And you didn't think it was a good idea for</p>	<p style="text-align: right;">472</p> <p>1 SILVA</p> <p>2 fight for.</p> <p>3 Q. Right.</p> <p>4 A. That's what I'm asking him to do.</p> <p>5 Q. Right. But if he told you he's never going</p> <p>6 to fight again unless he can fight for Bellator, you</p> <p>7 would tell him honor your contract --</p> <p>8 A. Or if he said that he wanted to box or if he</p> <p>9 wanted to do another combat sport.</p> <p>10 Q. What would you tell him?</p> <p>11 A. No, you have a contract with us.</p> <p>12 Q. And so you did not want him to fight for</p> <p>13 Bellator, you wanted --</p> <p>14 A. I did not want him fighting for anybody</p> <p>15 besides the UFC that he was contracted to.</p> <p>16 Q. Okay. You can put that document aside.</p> <p>17 What kind of cell phone did you use in 2015</p> <p>18 while you were at Zuffa for business?</p> <p>19 A. I believe it was an iPhone.</p> <p>20 Q. And did you allow Zuffa's counsel in this</p> <p>21 case access to it at some point?</p> <p>22 A. Yes.</p> <p>23 Q. At what point did you provide Zuffa's</p> <p>24 counsel access to your phone?</p> <p>25 A. As soon as they asked me for it.</p>
<p style="text-align: right;">471</p> <p>1 SILVA</p> <p>2 Zuffa to grant Bocek a complete release in part</p> <p>3 because he was coming off a win, and that might</p> <p>4 benefit Bellator if a guy coming off a win at the UFC</p> <p>5 fought with Bellator?</p> <p>6 A. Well, I saw it as a possible strategy -- it</p> <p>7 wasn't that so much that as I saw it as a possible</p> <p>8 strategy.</p> <p>9 It's one thing if a guy comes off a loss,</p> <p>10 and you're going, oh, man, maybe I need to rethink</p> <p>11 this, maybe a guy is old and really past his prime;</p> <p>12 that was not the case for Bocek. He won and was</p> <p>13 still a relatively young fighter, so it seemed to me</p> <p>14 like it could be just a strategy to get out of his</p> <p>15 contract rather than a legitimate retirement.</p> <p>16 Q. And you did not want to entertain Bocek's</p> <p>17 potential strategy to get out of his contract in part</p> <p>18 because that would then allow Bocek to go fight for</p> <p>19 another promotion; correct?</p> <p>20 A. I wanted him to honor the contract that he</p> <p>21 signed.</p> <p>22 Q. And part of the way he would honor the</p> <p>23 contract that he signed would be not to fight for</p> <p>24 Bellator; correct?</p> <p>25 A. Would be to fight for us, who he agreed to</p>	<p style="text-align: right;">473</p> <p>1 SILVA</p> <p>2 Q. And when was that?</p> <p>3 A. I don't recall.</p> <p>4 Q. Well, when did you first hear that this case</p> <p>5 had been filed?</p> <p>6 A. I don't recall the date. But when it had</p> <p>7 been filed, they made us aware, and I complied</p> <p>8 immediately.</p> <p>9 Q. So the -- the case was filed, and as soon as</p> <p>10 you were made aware of that, you were asked to</p> <p>11 surrender your phone; is that right?</p> <p>12 A. I was -- believe we received instructions</p> <p>13 not to delete anything, not to do that, and then made</p> <p>14 arrangements to get my phone.</p> <p>15 Q. So you were asked not to delete any text</p> <p>16 messages or e-mails after the filing of the suit; is</p> <p>17 that right?</p> <p>18 A. Yeah, whenever they had asked me not to.</p> <p>19 They did put out a notification to everybody in the</p> <p>20 company, "Do not delete anything."</p> <p>21 Q. And did you comply with that note?</p> <p>22 A. I did.</p> <p>23 Q. Did you delete any e-mails or text messages</p> <p>24 after this litigation was filed?</p> <p>25 A. No.</p>

<p style="text-align: right;">474</p> <p>1 SILVA</p> <p>2 Q. Now, your -- the text message production</p> <p>3 that Zuffa made to us from your phone begins</p> <p>4 January 30th, 2015.</p> <p>5 A. (Nods head up and down.)</p> <p>6 Q. Did -- did you send any text messages from</p> <p>7 December 16th, 2014, to January 30th, 2015?</p> <p>8 A. I saved them as soon as they said to not</p> <p>9 delete. Before that, it was not my practice to keep</p> <p>10 texts. That's how I got tasks done, is if my phone</p> <p>11 was clear, I knew I had taken care of everybody who</p> <p>12 had texted me. Once they said don't do that anymore,</p> <p>13 I stopped doing it.</p> <p>14 Q. So I'm going to represent to you that this</p> <p>15 case was filed on December 16, 2014, and also that</p> <p>16 the first text that we have from the compilation from</p> <p>17 your phone is dated January 30th, 2015.</p> <p>18 Can you explain the gap between December</p> <p>19 16th, 2014, and January 30th, 2015?</p> <p>20 A. I have no idea. I just know that I stopped</p> <p>21 deleting when they told me to.</p> <p>22 Q. I want to ask you some questions about your</p> <p>23 preparation for this deposition today. Other than</p> <p>24 counsel did you talk to anyone else about the</p> <p>25 deposition today?</p>	<p style="text-align: right;">476</p> <p>1 SILVA</p> <p>2 announced, but I had no idea it had happened.</p> <p>3 Q. So nobody from WME interviewed you at all</p> <p>4 about the company?</p> <p>5 A. No.</p> <p>6 Q. When did you leave Zuffa?</p> <p>7 A. At the end of the year.</p> <p>8 Q. 2016?</p> <p>9 A. Correct.</p> <p>10 Q. And did -- and I think you said you left</p> <p>11 amicably, it was an amicable departure?</p> <p>12 A. Very.</p> <p>13 Q. And you retired; is that right?</p> <p>14 A. Yes.</p> <p>15 Q. Why did you decide to retire then?</p> <p>16 A. They -- I don't know if they sent me a</p> <p>17 retirement letter, but -- no, I'd just done this --</p> <p>18 I'd been with the UFC for 22 years, and it caused me</p> <p>19 to travel a lot, and I don't like traveling. I don't</p> <p>20 like being away from my family and my friends. And I</p> <p>21 was -- it was just time to stop.</p> <p>22 But it was super amicable. I still, you</p> <p>23 know, stay in touch with Sean and with Mick. I love</p> <p>24 the sport. Still watch every UFC. I still watch</p> <p>25 every Bellator. I still watch every World Series --</p>
<p style="text-align: right;">475</p> <p>1 SILVA</p> <p>2 A. No.</p> <p>3 Q. For how long did you prepare for this</p> <p>4 deposition?</p> <p>5 A. A day and a half.</p> <p>6 Q. Were you shown any documents as part of your</p> <p>7 preparation for the deposition today?</p> <p>8 A. Some.</p> <p>9 MR. CRAMER: All right. I'd like to go</p> <p>10 off the record. I'm almost done.</p> <p>11 THE VIDEOGRAPHER: We're off the record at</p> <p>12 6:38.</p> <p>13 (Recess taken at 6:38 p.m., proceedings</p> <p>14 resumed at 6:45 p.m.)</p> <p>15 THE VIDEOGRAPHER: We're back on the</p> <p>16 record at 6:45.</p> <p>17 BY MR. CRAMER:</p> <p>18 Q. Were you involved at all in the sale of the</p> <p>19 UFC from Zuffa to WME ING?</p> <p>20 A. No.</p> <p>21 Q. Did you speak with any of the WME folks</p> <p>22 after they purchased UFC?</p> <p>23 A. Way after the fact I did. But yeah, I did</p> <p>24 not find out that it had been sold till the middle of</p> <p>25 UFC 200 before -- right before it had been publicly</p>	<p style="text-align: right;">477</p> <p>1 SILVA</p> <p>2 or now they're changing the name. But I -- I love</p> <p>3 this sport.</p> <p>4 People would ask me, they were like, oh, so</p> <p>5 you got out because you couldn't stand the sport</p> <p>6 anymore? It's like, absolutely not. I get to love</p> <p>7 it more now because there's nothing attached. I</p> <p>8 don't have to do it, I just watch it because I enjoy</p> <p>9 watching it. So it -- it's much more pleasurable.</p> <p>10 Q. You said you still speak to Sean Shelby; is</p> <p>11 that right?</p> <p>12 A. Yes.</p> <p>13 Q. And Mick, who's Mick?</p> <p>14 A. Mick Maynard, he was -- Sean kind of moved</p> <p>15 into my position, and Mick Maynard moved into Sean's</p> <p>16 position.</p> <p>17 MR. ISAACSON: We've already got this on</p> <p>18 the record.</p> <p>19 MR. CRAMER: I know.</p> <p>20 Q. And you -- and you have a -- in your mind, a</p> <p>21 strong bond between you and -- and the people at the</p> <p>22 UFC; is that right?</p> <p>23 A. Yes.</p> <p>24 MR. CRAMER: All right. Thank you very</p> <p>25 much. That's all the questions I have.</p>